



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.195 of 2015

Subbulakshmi

... Appellant/Petitioner

Vs.

1.Ponraman

2.Rathinasamy

... Respondents/ Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, against the order and decree dated 20.09.2012 made in M.C.O.P.No.575 of 2012 on the file of the Motor Accidents Claims Tribunal cum Special Subordinate Court for MCOP cases, Dindigul.

For Appellant

: Mr.C.K.M.Appaji

For Respondents

: No appearance

JUDGMENT

The claimant has filed this Civil Miscellaneous Appeal seeking enhancement of the compensation payable to her.

2.The claimant met with the accident in question on 07.11.2009 on account of the rash and negligent driving of the driver of the vehicle belonging to the first respondent herein. The Tribunal fixed the negligence on the respondents. This finding has become final as there is no appeal from the respondents. It is only for the quantum, the appellant has come to this Court seeking enhancement.

3.The Tribunal erroneously held that even though the appellant filed proof to show as she has suffered spinal injury, she did not examine the doctor. This is factually incorrect. It is seen from the evidence on record that the doctor was examined and Ex.P3, medical certificate was also marked. The doctor has given a certificate certifying that the claimant has suffered 31% disability. Since the injury relates to spiner, this Court can take judicial notice of the fact that it will have serious consequences on every aspect of life. The claimant was 36 years old when the accident took place. Therefore, the compensation payable to her has to be re-worked as under :



Sl.No.	Head	Amount in Rs.
1.	Compensation for Disability 31x3,000	Rs.93,000/-
2.	Pain and suffering as she was an inpatient for 11 days	Rs.25,000/-
3.	Future medical expenses	Rs.25,000/-
4.	Attender charges	Rs.2,000/-
5.	Transportation charges	Rs.5,000/-
6.	Special diet	Rs.12,000/-
7.	Medical expenditure	Rs.4,687/-
	Total	Rs.1,66,687/-

4.The award dated 20.09.2012 made in MCOP.No.575/2012 on the file of the Motor Accidents Claims Tribunal cum Special Subordinate Court for MCOP cases, Dindigul is modified and the compensation payable to the appellant is enhanced from Rs.35,687/- to Rs.1,66,687/-. The respondents are jointly and severally liable to pay the enhanced amount with interest at the rate of 7.5% per annum from the date of petition till the date of realization to the credit of M.C.O.P.No.575 of 2012 on the file of the Motor Accidents Claims Tribunal cum Special Subordinate Court for MCOP cases, Dindigul, within a period of twelve weeks from the date of receipt of this order. On such deposit, the claimant is permitted to withdraw the entire amount by filing proper application before the Tribunal.

5.This Civil Miscellaneous Appeal is allowed as indicated above. No costs.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

1.The Special Sub Judge,
Motor Accidents Claims Tribunal
cum Special Subordinate Court
for MCOP cases, Dindigul.

+1cc to Mr.C.K.M.Appaji, Advocate SR.No.83322

SKM

VB/MR/KKR/SAR4/13/11/2017/2P/3C

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