



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.09.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No. 874 of 2014

Revathi

... Appellant /Petitioner

Vs.

1.Thangaponnu

....1st respondent/1st respondent

2.M/s. Bajaj Allianz General
Insurance Company Ltd.,
Represented by its
Branch Manager,
K.M.A.Complex,
12-G, Ramnagar,
Bye-pass Road,
Madurai.

...2nd Respondent/ 2nd Respondent

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 06.09.2013 made in M.C.O.P.No.632 of 2006 on the file of the Motor Accidents Claims Tribunal /(learned Principal Subordinate Judge), Madurai.

For Appellant :Mr.Ramesh Alias Ramiah

For R-2 :Mr.J.S.Murali

For R-1 :No Appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant against the Judgment and decree dated 06.09.2013 made in M.C.O.P.No.632 of 2006 on the file of the Motor Accidents Claims Tribunal /(learned Principal Subordinate Judge), Madurai.

2. It is a case of injury sustained by the appellant/claimant, in an accident, which took place on 03.12.2005 at about 08.15 a.m. near Thuvariman Society Chamber in Madurai-Melakkal Main Road.



3. It is the case of the injured/claimant before the Tribunal that when the claimant was travelling, in the cabin of the Tempo Mini Auto bearing Registration No.TN-58-M-1984. The driver of the vehicle drove the auto in a rash and negligent manner at a high speed and ultimately the auto capsized. Due to this impact, the petitioner sustained grievous injuries as well as fractures.

4.The claimant filed an application in M.C.O.P.No.632 of 2006 on the file of the Motor Accidents Claims Tribunal /(learned Principal Subordinate Judge), Madurai, seeking compensation.

5.The Tribunal, after considering the pleadings, oral and documentary evidence and the arguments advanced on either side and also appreciating the evidence on record, held that the accident occurred only, due to the rash and negligent driving of the driver of the auto and therefore directed the second respondent/Insurance Company to pay a sum of Rs.1,08,029/-, as compensation.

6. Against which, the appellant/claimant filed this present appeal seeking enhancement of compensation.

7.The learned counsel for the appellant/claimant would submit that the victim sustained injuries and she was treated by P.W.10-Doctor. The Doctor had issued the Disability Certificate under Ex.P31 assessing the partial disability at 46%. But, the Tribunal has awarded Rs.1,500/- for 1% aggregating to Rs.69,000/- for disability. The learned counsel for the appellant relied on the Judgment rendered in **P.Elangovan vs. S.Murali and two others** reported in **2017 (1) TN MAC 251**, wherein it has been held that a sum of Rs.3,000/- should be fixed for 1% disability.

8.Considering the above submission, this Court fixes a sum of Rs.3,000/- (Rupees Three Thousand Only) for 1% disability and awards a rounded of amount of **Rs.1,38,000/- (Rupees One Lakh and Thirty Eight Thousand Only)**, towards partial permanent disability.

9. Further, the sum of Rs.5,000/- (Rupees Five Thousand only) awarded by the Tribunal towards extra nourishment, is on the lower side and therefore, the same is enhanced to a sum of **Rs.15,000/-** (Rupees Fifteen Thousand only).

10. Similarly, the Tribunal has awarded a sum of Rs.20,000/- towards pain and sufferings, which is on the lower side and therefore, the same is hereby enhanced to **Rs.40,000/-** and a sum of Rs.2,000/- awarded towards transportation is also enhanced to **Rs.10,000/-** (Rupees Ten Thousand only). In all other aspects, the award of the Tribunal is confirmed.

11.In view of the settled position of law, this Court modifies the award of the Tribunal by enhancing the compensation, as under:-



(iii) The appellant/claimant is directed to pay the additional Court fee, if any, within a period of two weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(CO)

WEB COPY

/True Copy/

Sub Assistant Registrar

To,

1. The Principal Subordinate Judge,
Motor Accidents Claims Tribunal,
Madurai.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.A.Liaket Ali, Advocate Sr.No.78543

+1cc to Mr.J.S.Murali, Advocate Sr.No.78701

RJ2

VB/KP/SAR3/05/12/2017/4P/5C

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13.09.2017