



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1174 of 2011

Sudha

... Appellant/Petitioner

Vs

1.Ravi

2.The Branch Manager,
United India Insurance Company Limited,
No.19, Neela South Street,
Nagapattinam Town and District.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 14.12.2010 and made in M.C.O.P.No.194 of 2010 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate at Nagapattinam.

For Appellant : Mr.S.N.Gnanalingam

For Respondents : No appearance for R1
Mr.S.Arun Kumar for R2

J U D G M E N T

The instant appeal has been filed by the claimant challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal at Nagapattinam, in its Award dated 14.12.2010 in M.C.O.P.No.194 of 2010.

2. The brief facts leading to the filing of the instant appeal are as follows:

(i) the appellant sustained injuries on 18.5.2008, as a result of an accident while travelling in an Auto bearing Registration No.TN-51-X-1550 owned by the 1st respondent and insured with the 2nd respondent.

(ii) the appellant preferred a claim before the Motor Accident Claims Tribunal in MCOP.No.194 of 2010 seeking compensation of Rs.2,00,000/-.

(iii) The Motor Accident Claims Tribunal, by its Award dated



14.12.2010 in MCOP.No.194 of 2010 directed the respondents jointly and severally pay the appellant, a sum of Rs.25,000/- together with interest at the rate of 7.5% per annum from the date of claim, till the date of realisation and also costs of Rs.1131/-

(iv) Aggrieved by the quantum of compensation awarded by the tribunal, the instant appeal has been filed by the claimant seeking enhancement of compensation.

3. Heard Mr. S. Gnanalingam, learned counsel for the appellant and Mr.S.Arunkumar, learned counsel appearing for the 2nd respondent Insurance Company. The 1st respondent has remained exparte both before the tribunal as well as this Court.

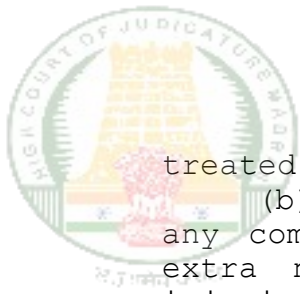
4. According to learned counsel for the appellant, the entire award amount has been deposited by the 2nd respondent before the tribunal. According to him, the compensation awarded by the tribunal under the impugned award is an inadequate compensation. He would contend that even though the Doctor has assessed the disability of the appellant as a result of the injuries at 33%, the tribunal without any basis, has assessed the disability only at 25%.

5. According to him, the appellant was aged 21 years and was employed as a Sales Girl in a Grocery Shop at the time of the accident and she sustained fracture on her left clavicle. According to him, considering her age, avocation and the nature of injuries sustained, the tribunal ought to have awarded higher compensation towards the disability as well as under other heads.

6. Per contra, the learned counsel for the 2nd respondent would submit that the compensation awarded by the tribunal under the impugned award is a just compensation. According to him she sustained only one fracture and was hospitalised only for six days and she has been treated conservatively

7. This Court, after having considered the materials available on record and after examining the impugned award and after hearing the submissions of the respective counsels observes the following;

(a) the appellant has produced before the tribunal the disability certificate which is marked as Ex.P.6 which discloses that the appellant suffered 33% partial permanent disability. PW2-Doctor has also been examined on the side of the appellant and he has also confirmed in his deposition that the appellant has suffered 33% partial permanent disability, but considering the nature of the injuries sustained by the appellant, the tribunal has assessed the disability of the appellant only at 25%. This court is also in agreement with the said assessment since the appellant has sustained only one fracture and was



treated conservatively and was in the hospital only for six days.

(b) The tribunal under the impugned award has not granted any compensation to the appellant towards pain and suffering, extra nourishment charges and loss of income. Due to the injuries, the appellant would certainly have suffered pain and would have also suffered loss of income for the period during which she was recovering from the injuries sustained as a result of the accident.

(c) In the considered view of this Court, the tribunal ought to have awarded compensation towards pain and suffering, extra nourishment charges and loss of income.

(d) Considering the nature of injuries sustained by the appellant, this Court is of the considered view that the appellant would have suffered loss of income for atleast two months. Therefore, this Court awards Rs.5,000/- towards loss of income by taking into account her monthly income as Rs.2500/- p.m. (Rs.2500 x 2), Rs.10,000/- as compensation towards pain and suffering, Rs.5,000/- towards extra nourishment charges and Rs.5,000/- towards transportation costs.

8. The compensation awarded by the tribunal is enhanced by this Court in the following manner;

Sl. No.	Amount awarded by the tribunal	Amount Awarded by this Court
Disability compensation	Rs. 25,000/-	Rs.25,000/-
Pain and suffering	---	Rs.10,000/-
Extra nourishment	---	Rs.05,000/-
Transportation	---	Rs.05,000/-
Loss of income	---	Rs.05,000/-
Total	Rs. 25,000/-	Rs.50,000/-

9. In the light of the above observations, this Court is of the considered view that the compensation awarded by the tribunal under the impugned award has to be enhanced from Rs.25,000/- to Rs.50,000/- along with interest at the rate of 7.5% per annum from the date of claim till the date of realisation.

10. In the result,

i) the Civil Miscellaneous Appeal is partly allowed. No costs.

ii) the compensation awarded by the tribunal is enhanced from Rs.25,000/- to Rs.50,000/- and the enhanced amount shall carry interest at the rate of 7.5% from the date of claim, till the date of realisation.



iii) Since the entire Award amount has already been deposited before the Tribunal, the 2nd respondent is directed to deposit the enhanced compensation amount of Rs.25,000/- awarded by this Court along with interest at the rate of 7.5% per annum from the date of claim, till the date of realisation to the credit of MCOP.No.194 of 2010 before the tribunal.

iv) On such deposit being made, the appellant is permitted to withdraw the same on making an appropriate application.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

msr

To

1.The Chief Judicial Magistrate
The Motor Accident Claims Tribunal,
Nagapattinam.

2.The Record Clerk,
Vernacular Section,
Madras High Court.

+1 cc to Mr.N.Gnanalingam, Advocate Sr.No.70387

+1 cc to Mr.S.Arunkumar, Advocate Sr.No.70726

C.M.A.No.1174 of 2011

NM(CO)

CSL/03.12.2018