

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MR.JUSTICE S.BASKARAN

C.M.A.No.1756 of 2016

J.Premalatha ..Appellant/ Petitioner

Vs

1.S.Mani

2.The New India Assurance Company Ltd.,
Rep. By its Branch Manager,
LIC Building, Sathyamoorthy Road
Arni, Tiruvannamalai District. ..Respondents/Respondents

Civil Miscellaneous Appeal filed u/s.173 of Motor Vehicles Act, 1988, against the Judgment and decree dated 16.03.2016 made in M.C.O.P.No.147 of 2012 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Arni.

For appellant : : Mr.P.Satheesh Kumar

for Respondents : : Mrs.A.Salomi for R2
R1-Exparte.

J U D G M E N T

(Judgment of the Court was made by N.KIRUBAKARAN, J.)

The appeal has been preferred by the claimant aggrieved over the quantum of compensation of Rs.1,84,252/- for the injuries sustained by her for the accident occurred on 12.06.2012, leading to amputation on her right hand. When the victim was travelling as passenger in a Government Bus from Kancheepuram to Tambaram and at that time, a Tractor-Trailer belonging to the 1st respondent insured with the 2nd respondent came in the opposite direction with high speed driven rash and negligently and hit against the bus causing accident.

2. Heard Mr.P.Satheesh Kumar, learned counsel appearing for the appellant and Mrs.A.Salomi, learned counsel appearing for the 2nd respondent.

3. It is evident from the records that the claimant sustained serious injuries in the accident and therefore her right hand was amputated as proved by Ex.P.2-Discharge summary, Ex.P.4-Certificate issued by the Government and Ex.P.9-Disability certificate. As per P.W.2/doctor's evidence, the disability sustained by the claimant is at 70%. However, the Tribunal converted it to whole body disability at 1/3rd. The said reduction of disability from 70% to 1/3rd of 70% is erroneous and the same is set aside. When the right hand was amputated, it is impossible for the claimant to do any normal work. Moreover, there is no contra evidence adduced by the respondents in this regard. Therefore, 70% determined by P.W.2/doctor's evidence is taken by this Court.

4. Even though the claimant in the claim petition claimed a sum of Rs.15,000/- as monthly income, the Tribunal took Rs.8000/- per month as per Ex.P.5 issued by M/s.Jeyam Plastic Company, Thiruvottriyur, Chennai, and the employment is also proved by examination of P.W.3. Therefore, this court takes Rs.8000/- as monthly income.

5. Considering the nature of injury sustained by the claimant leading to amputation on her right hand, it is fittest case to apply multiplier method as per Division Bench Judgment in United India Insurance Company Limited Vs Veluchamy and another reported in 2005 ACJ 1483 (Division Bench Madras). Therefore, this court adopts multiplier method.

6. The monthly income as already determined by the Tribunal is confirmed by this court as Rs.8000/-. The age of the victim is 37 and the appropriate multiplier is '15' and the loss of income is calculated as under:-

$8000/- \times 12 \times 70/100 \times 15 = \text{Rs.}10,08,000/-$.
Therefore, the amount awarded by the Tribunal towards loss of income as Rs.1,72,800/- is enhanced to Rs.10,08,000/-.

7. Rs.5000/- awarded towards Pain and suffering is negligible. The Pain and suffering underwent by the claimant that too in case of amputation cannot be estimated. Therefore, Rs.75,000/- is awarded.

8. Rs.5000/- awarded towards Transportation is too low and hence, the same is enhanced to Rs.25,000/-. Another Rs.1000/- awarded by the Tribunal towards Extra Nourishment is also very low and the same is enhanced to Rs.25,000/-. Rs.452/- awarded towards Medical Expenses is confirmed.

9. No amount is awarded towards loss of amenities. Hence, Rs.1,00,000/- is awarded. Similarly, no amount is awarded towards Attender Charges. Accordingly, Rs.25,000/- is granted. As the Tribunal failed to award amount towards Future medical expenses, this court awards Rs.1,50,000/- for artificial limb.

10. The modified award amount is as under:-

Sl.No	Heads	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
1.	Loss of income	1,72,800/-	10,08,000/-
2.	Pain and suffering	5,000/-	75,000/-
3.	Transport expenses	5,000/-	25,000/-
4.	Medical bills	452/-	452/-
5.	Extra Nourishment	1,000/-	25,000/-
6.	Loss of amenities	--	1,00,000/-
7.	Attender charges	--	25,000/-
8.	Future medical expenses	--	1,50,000/-
	Total	1,84,252/-	14,08,452/- rounded off to Rs.14,10,000/-

11. In the result,

(i) This Civil Miscellaneous Appeal is Partly Allowed.

(ii) The award of Rs.1,84,252/- is enhanced to Rs.14,08,452/- and rounded off to Rs.14,10,000/-.

(iii) The rate of interest fixed by the tribunal at 7.5% per annum stands confirmed. Interest will not be applicable in respect of Rs.1,50,000/- which is granted for future medical expenses.

(iv) The 2nd respondent/Insurance company is directed to deposit the entire enhanced award amount along with proportionate interest and cost, within a period of eight weeks from the date of receipt of a copy of the order.

(v) On such deposit, the Tribunal is directed to transfer the compensation amount to the Bank account of the Appellant/Petitioner/claimant by RTGS within one week thereon.

(vi) No costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

nvsri

To

- 1.The Subordinate Judge Court,
Motor Accidents Claims Tribunal, Arni.
- 2.The Section Officer, V.R.Section, High Court, Madras.

1 cc to M/s. P. Satheesh Kumar, Advocate Sr.55379
+ 1 cc to Mr.C. Rameshbabu, Advocate Sr.54969

C.M.A.No.1756 of 2016

AK(CO)
EU(17/09/2018)

सत्यमेव जयते
WEB COPY