

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.22 of 2016

C.Nalini

.. Appellant/Petitioner

Vs.

1. R.Victoria

2. The Branch Manager,
National Insurance Company Ltd.,
Motor Third party claims office,
No.751, Anna Salai,
Chennai 600 002. .. Respondents/Respondents

(R1 set exparte before the Tribunal)

Prayer:

This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 20.08.2015 made in M.C.O.P.No.6808 of 2013, on the file of III Small Causes Court, (Motor Accidents Claims Tribunal), Chennai.

For Appellant : Mr.R.Nalliyappan

For R2 : Ms.R.Sreevidhya

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of the compensation granted by the award dated 20.08.2015 made in M.C.O.P.No.6808 of 2013, on the file of III Small Causes Court, (Motor Accidents Claims Tribunal), Chennai.

2.The appellant is the claimant in M.C.O.P.No.6808 of 2013, on the file of III Small Causes Court, (Motor Accidents Claims Tribunal), Chennai. She filed the said claim petition, claiming a sum of Rs.13,00,000/- as compensation for the injuries suffered by her in the accident that took place on 24.10.2013.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the van belonging to the 1st respondent and 2nd respondent, as the insurer of the vehicle is liable to pay a sum of Rs.96,800/- as compensation to the appellant.

4.Not being satisfied with the compensation awarded by the Tribunal, the appellant has come out with this appeal.

5.The learned counsel appearing for the appellant contended that the Tribunal erred in reducing the percentage of disability from 40% to 20% without assigning any reasons. The Tribunal ought to have accepted the evidence of P.W.2 and Ex.P3, discharge summary and fixed the percentage of disability as 40%. The compensation awarded by the Tribunal is meager and prayed for enhancement of the same.

6.Heard the learned counsel for the appellant as well as the 2nd respondent and perused the materials available on record.

7.As far as the quantum of compensation is concerned, P.W.2, Doctor has assessed the percentage of disability as 40%. The Tribunal reduced the percentage of disability to 20% and awarded a sum of Rs.40,000/- at the rate of Rs.2,000/- per percentage. Considering the nature of injuries and the percentage of disability assessed by the P.W.2, Doctor, the percentage of disability fixed by the Tribunal as 20% is modified to 30%. Hence, a sum of Rs.90,000/- is granted towards disability, at the rate of Rs.3,000/- per percentage. The accident took place in the year 2016. The appellant took treatment as inpatient in the hospital from 24.10.2013 to 28.10.2013, for a period of 5 days. The Tribunal has not awarded any amount towards attender charges. Hence, a sum of Rs.5,000/- is granted towards the attender charges. The amounts awarded by the Tribunal under all other heads are just and reasonable and hence, the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of income	10,000	10,000	confirmed
2.	Transportation	5,000	5,000	confirmed
3.	Extra nourishment	10,000	10,000	confirmed

4.	Medical expenses	1,300	1,300	confirmed
5.	Pain and suffering	30,000	30,000	confirmed
6.	Damages to clothes	500	500	confirmed
7.	Disability	40,000	90,000	Enhanced
8.	Attender changer	-	5000	granted
	Total	96,800	1,51,800	Enhanced by Rs.55,000/-

8. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.96,800/- is hereby enhanced to Rs.1,51,800/-, with interest and costs. The 2nd respondent is directed to deposit the enhanced award amount with interest and cost, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the appellant is permitted to withdraw the award amount with interest and costs, after adjusting the amount, already withdrawn, if any, by filing necessary applications before the Tribunal. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

gsa

To

- The III Judge,
Small Causes Court,
(Motor Accidents Claims Tribunal), Chennai

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2. The Section Officer,
VR Section, High Court,
Madras-104

+1cc to Mr.R.Nalliyappan, Advocate, S.R.No.86010
+1cc to Mr.R.Sreevidhya, Advocate, S.R.No.87041

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GP(CO)
CS/09/04/2019



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