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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CMA No.2286 of 2017

Y.Reeta

.... Appellant

-vs-

1.M.Sathiyakumar
(was set exparte in the Trial Court)

2.United India Insurance Co. Ltd.,
Motor Third Party Claims Hub
No.134, Silingi Buildings,
4th Floor, Grems Road,
Chennai 600 006.

....

Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, 1988 against the judgment and decree dated 01.12.2016 passed in M.C.O.P.No.282 of 2013 on the file of the Motor Accidents Claims Tribunal, III Small Causes Court, Chennai.

For Appellant : Ms.P.T.Saleem Fathima,
for M/s.M.Swamikkannu

For Respondents: Exparte (For R1)

Mr.P.Sankaranarayanan (For R1)

J U D G M E N T

[Judgment of the Court was delivered by
R.SUBRAMANIAN,J.]

This appeal is by the claimant who was injured in a road accident that occurred on 12.11.2012. She claimed that because of the injury and shortening of the limb by 5 centimetres, she is suffering a permanent disability and thus, claimed a sum of Rs.19,00,000/- as compensation.

2.It was contended that she was working as a sweeper in a Kalyana Mandapam and earning a salary of Rs.10,000/- per month. The Tribunal found that the injury had resulted in 30% disability, though the doctor's disability certificate, Ex.P5 shows 40%. Finding that the



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injured is continuing her job, the Tribunal concluded that she is not entitled to any amount towards future loss of earning power. The Tribunal awarded the following amounts as compensation:

Award towards	Amount
Transport to Hospital	- Rs. 10,000/-
Extra Nourishment	- Rs. 30,000/-
Loss of Income	- Rs. 65,500/-
Attender Charges	- Rs. 20,500/-
Damages to clothing	- Rs. 1,000/-
Pain and suffering	- Rs. 50,000/-
Mental and physical shock	- Rs. 10,000/-
Loss of Amenities	- Rs. 25,000/-
Disability 30% @ Rs.3,000/-	- Rs. 90,000/-
Total	Rs. 3,02,000/-

3.We have heard Ms.P.T.Saleem Fathima for Mr.M.Swamikannu, learned counsel appearing for the appellant and Mr.P.Sankaranarayanan, learned counsel for the Insurance Company. The owner of the vehicle, namely the 1st respondent in the appeal remained exparte before the Tribunal. Hence, notice to him is dispensed with.

4.Ms.P.T.Saleem Fathima, learned counsel for the appellant would contend that the Tribunal was not right in rejecting her claim for compensation towards loss of future earning capacity. She would submit that as per the evidence on record, the claimant has a shortening of a limb for 5 centimetres that would definitely have a bearing on her earning power.

5.The Tribunal has assessed the permanent disability as 30%. We find that the functional disability would be 20% atleast. The Tribunal has taken the income of the deceased as Rs.7,500/-, but the Tribunal has not added any amount towards future prospects. Considering the age of the injured, 25% is added towards future prospects. On such addition, the monthly income would be Rs.9,375/-. The multiplier applicable is '14'. Therefore, the loss of future earning power would be:

$$\text{Rs.9,375/-} \times 12 \times 14 \times 20 = \text{Rs.3,15,000/-}$$

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6.The Tribunal has awarded a sum of Rs.20,500/- towards attender charges on the ground that the injured



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was taking treatment in a Government hospital. Considering the period of treatment, we find that the said amount is very low. Hence, the same is enhanced to Rs.28,500/-. Thus, the total award would work out to Rs.6,25,000/- with 7.5% interest from the date of petition till the date of deposit. It is stated that the Insurance Company has satisfied the award granted by the Tribunal. The Insurance Company shall deposit the balance amount as per the enhanced award within a period of four (4) weeks from the date of receipt of a copy of this order. On such deposit, the appellant would be entitled to withdraw the same.

7.In fine, the appeal is partly allowed. However, there is no order as to costs.

Sd/--

Assistant Registrar(CS vi)

//True Copy//

Sub Assistant Registrar

gsa

To

1.The Motor Accidents Claims Tribunal,
III Small Causes Judge,
Chennai.

Copy to

The record Keeper,
VR Section,
High court
Madras

+1cc to Mr.P.Sankaranarayanan , Advocate SR.No. 62259

+1cc to M/s.M.Swamikkannu , Advocate SR.No. 62376

CMA No.2286 of 2017

ASK(27/11/2018)