

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2018

CORAM:

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

CMA No.446 of 2018

Mohaneshwari

.... Appellant/Petitioner

-vs-

1.Bhageshwara Rao

(R1 remained exparte before the Tribunal, hence his presence may be dispensed with)

2.The New India Assurance Co. Ltd.,

Having its Office at

Suderson Complex,

M.C.Road, Vijayawada - 520 010.

.... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 19.12.2013 made in M.A.C.T.O.P.No.733 of 2006 on the file of the Motor Accident Claims Tribunal, IV Additional District Judge, Ponneri.

For Appellant : Mr.F.Terry Chella Raja

For Respondent
No.2 : Mr.S.Manohar

Respondent
No.1 : Exparte

J U D G M E N T

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

The claimant has come forward with this appeal seeking enhancement.

2. The claimant was travelling as a pillion rider in a two wheeler bearing Registration No.TN-20-4210. At that time, a lorry bearing registration No.A.B.W.9477, driven by its driver in a rash and negligent manner dashed against the two wheeler. As a result of the accident that took place on 28.08.2006, the claimant sustained grievous injuries on both legs. The

disability has been assessed at 100%. From the discharge summary filed as Ex.P2, it could be seen that due to the injuries, her legs have become useless resulting in permanent disability.

3. The Tribunal took the monthly income of the injured as Rs.2,000/- and awarded compensation of Rs.3,84,000/- towards Loss of Income. Considering the death of the accident, we are of the view that the monthly income taken by the Tribunal is very low. We are of the opinion that the monthly income could be taken as Rs.4,000/- and 40% should be added towards future prospects. Therefore, the monthly income of the injured is fixed at Rs.5,600/-. The injured is aged about 33 years at the time of accident. Thus, the appropriate multiplier would be "16". If calculated on that basis, the Loss of Income works out to Rs.10,75,200/-. The Tribunal has awarded Rs.1,00,000/- for pain and suffering, Rs.20,000/- for Extra nourishment and Rs.10,000/- towards Transport to Hospital. The compensation awarded by the Tribunal under these heads is sustained.

4. Mr.Terry Chella Raja, learned counsel for the appellant would submit that the Tribunal should have awarded some amount towards attender charges. Considering the fact that the injured is permanently disabled and she is confined to wheel chair, we award a sum of Rs.50,000/- towards attendant charges.

5. Thus, the total compensation would be as follows:

i) Loss of Income	: Rs.10,75,200/-
ii) Pain and Suffering	: Rs. 1,00,000/-
iii) Extra nourishment	: Rs. 20,000/-
iv) Transport to Hospital	: Rs. 10,000/-
v) Attendant Charges	: Rs. 50,000/-
Total	: Rs.12,55,200/-
(Rounded off to Rs.12,55,000/-)	

6. In the result, the Civil Miscellaneous Appeal is Partly Allowed as follows:-

(i) The award of the Tribunal is enhanced to Rs.12,55,000/- from Rs.5,14,000/-.

(ii) The award amount will carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit. However, we make it clear that the claimant will not be entitled to interest for the period of 1018 days being the period of delay in filing the appeal.

(iii) The 2nd respondent-Insurance Company is directed to deposit the award amount, less the amount, if any, already deposited, along with accrued interest within a period of eight weeks from the date of receipt of a copy of this judgment.

(iv) On such deposit, the claimant is permitted to withdraw the amount deposited by filing proper application before the Tribunal. The Tribunal shall pass appropriate directions for the disbursal of the amount as stated supra on filing of such application.

(v) Petitioners/appellants shall pay necessary court fee before receiving the copy of this judgment for the enhanced compensation amount, if any.
No costs.

s/d-

Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

svki

To

1. Motor Accident Claims Tribunal,
IV Additional District Judge, Ponneri.

+1 CC to Ms.M. Malar, Advocate sr 58938.

+1 CC to Mr.S. Manohar, Advocate sr 58521

CMA No.446 of 2018

SJ(CO)
SP(28/09/2018)

सत्यमेव जयते

WEB COPY