

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2018

CORAM:

THE HONOURABLE MS.JUSTICE ABDUL QUDDHOSE

C.M.A.NO.1566 of 2008

Virgin

...Appellant/Petitioner

Vs

1.Neelakanda Pillai

2.The National Ins. Co. Ltd.
No.66,Greams Road, Chennai-6

3.N.Subbiah

4.The Chairman & Managing Director
United India Ins. Co. Ltd.
No.24, Whites Road, Chennai-14

...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the decree and judgment made in M.C.O.P.No.1511 of 2000, dated 25.02.2005 on the file of Motor Accidents Claims Tribunal Additional District & Sessions Judge. Fast Track Court-I, Chennai.

For Appellant : M/s. Jayanthi Baskaran

For Respondents : M/s. Vijayaraghavan for R2
No Appearance for R1, R3 and R4

J U D G M E N T

The Instant Civil Miscellaneous Appeal is filed against the judgment and decree dated 25.02.2005 passed in M.C.O.P.No.1511 of 2000, on the file of Motor Accidents Claims Tribunal Additional District & Sessions Judge. Fast Track Court-I, Chennai.

2. The Appellant is the Claimant in the case. The tribunal has awarded a compensation of Rs.47,165/- to the Appellant/Claimant by its Award dated 25.02.2005.

3. The brief facts leading to the filing of the instant Appeal are as follows;

(i) On 18.5.1999, when the appellant was travelling as a passenger in Trucker Jeep bearing registration No.TN-21-Y-1499 in Thiruchendur to Tuticorin Road towards Tuticorin, a Maxicab Mahindra bearing Registration No.TN-69-B-2949 which came from the opposite direction collided against the above said Trucker Jeep. Due the accident, the appellant sustained grievous injuries.

(ii) The 1st and 3rd respondents herein are drivers and 2nd and 4th respondents herein are insurers of above said Trucker Jeep and Maxicab Mahindra vehicles respectively.

(iii) Due to the injuries sustained, the appellant herein claimed Rs.1,50,000/- as compensation before the tribunal.

(iv) The tribunal after considering the pleadings and after considering the evidence available on record, has passed the award directing the 1st respondent and 2nd respondent insurance company to pay a sum of Rs.47,165/- along with interest at the rate of 9% per annum from the date of claim till the date of realisation.

(v) Aggrieved by the compensation awarded by the tribunal, the appellant has preferred the instant appeal.

4. According to the learned counsel for the Appellant, the tribunal ought to have fixed the compensation at Rs.1,50,000/- since the tribunal has not considered the loss of future prospects, pain and sufferings and loss of amenities while fixing the compensation.

5. Per contra, the learned counsel for the 2nd respondent Insurance Company submits that the disability of the claimant on account of the accident was only 20%. Further, the Appellant/Claimant also did not submit any proof of her income before the tribunal and her medical bills were fully reimbursed under the award passed by the tribunal.

6.Learned counsel for the 2nd respondent Insurance Company submits that the award passed by the tribunal is a reasonable one commensurate to the loss suffered by the Appellant/Claimant.

7.As seen from the findings of the tribunal, this court is of the considered opinion that no amount was awarded to the Appellant/Claimant on account of loss of income during the period of treatment when the Appellant/Claimant underwent hospitalization on account of the injuries suffered by her on account of the accident.

8.This court is of the considered opinion that a sum of Rs.25,000/- will have to be awarded to the Appellant/Claimant for the loss of income suffered by the Appellant/Claimant during

the period of her hospitalisation . Accordingly the amount of Rs. 47,165 /- awarded as compensation by the Tribunal is enhanced by this Court to Rs.72,165/-. The enhanced amount of Rs.25,000/- shall carry interest at the rate of 7.5% per annum from the date of claim till the date of deposit.

9.In the result,

- The amount awarded by the tribunal in M.C.O.P.No.1511 of 2000 is enhanced from Rs.47,165/- to Rs.72,165/- .
- The compensation awarded by the tribunal at Rs.47,165/- shall carry interest at the rate of 9% per annum as awarded by the tribunal. The enhanced amount of Rs.25,000/- shall carry interest at the rate of 7.5% per annum from the date of claim till the date of deposit.
- The 2nd respondent Insurance Company is directed to deposit the modified amount awarded by this Court to the credit of M.C.O.P.No.1511 of 2000, along with interest as stated above within a period of four weeks from the date of receipt of a copy of this order.
- On such deposit, the appellant is entitled to withdraw the amount on making appropriate application before the tribunal.

9.Accordingly, the Civil Miscellaneous Appeal is disposed of.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1.The Motor Accident Claims Tribunal,
Additional District and Sessions Judge,
fast Track Court-I, Chennai.

+1cc to Mr.N.Vijayaraghavan, Advocate, S.R.No.55770

+1cc to Mr.J.Mahalingam, Advocate, S.R.No.56376

C.M.A.No.1566 of 2008

GJ(CO)
GSP(29/10/2018)