

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2780 of 2018

Rukumani

... Appellant/Claimant

Vs.

1.Anbazzhakan

2.The Divisional Manager,
M/s.United India Insurance Company Limited,
Puducherry - 1. 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 dated 11.10.2017 made in M.A.C.T.O.P.No.159 of 2014 on the file of the Motor Accidents Claims Tribunal, Puducherry.

For Appellant : Mr.Prakash Adiapadam

For R2 : Mr.P.Sankaranarayanan

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 11.10.2017, made in M.A.C.T.O.P.No.159 of 2014 on the file of the Motor Accidents Claims Tribunal at Puducherry.

2.By consent of both the parties, this Civil Miscellaneous Appeal is taken up for final disposal at the admission stage itself.

3.The appellant is claimant, who filed M.A.C.T.O.P.No.159 of 2014 on the file of the Motor Accidents Claims Tribunal, Puducherry, claiming a sum of Rs.15,00,000/- as compensation for the injuries sustained by her in the accident that took place on 20.12.2013.

4.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to the rash and negligent act of the driver of the Auto belonging to the 1st respondent and directed the respondents to pay a sum of Rs.3,17,500/- as compensation to the appellant, jointly and severally.

5.Not being satisfied with the compensation awarded by the Tribunal, the appellant has come out with the present appeal, seeking enhancement of the same.

6.The learned counsel appearing for the appellant contended that due to the injuries suffered by the appellant, she was admitted in the hospital from 20.12.2013 to 31.12.2013, during which period a surgery was conducted and plates were implanted. The Tribunal, without properly appreciating the nature of injuries sustained by her, awarded meager amount under the head of pain and suffering. The Tribunal has not granted any amounts for future medical expenses. The Tribunal failed to consider that another surgery has to be conducted for removal of plates and prayed for enhancement of compensation on different heads.

7.Per Contra, the learned counsel appearing for the 2nd respondent contended that the appellant was hospitalized only for 11 days and the Tribunal considering the nature of injuries and treatment taken by her, awarded excessive amount towards pain and suffering, transportation and attender charges. The appellant has not filed any document to prove her claim that she has to spend for future medical expenses and submitted that she is not entitled for any amount towards future medical expenses and prayed for dismissal of the appeal.

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

9.From the materials on record, it is seen that the appellant has let in evidence with regard to the nature of injuries and the treatment taken by her. The appellant was referred to the Medical Board, who had assessed that appellant suffered 35% permanent disability. The Tribunal accepting the same, has awarded compensation at the rate of Rs.3,000/- per percentage of disability for 35% and the same is in order. As far as the amounts granted under different heads are concerned, the Tribunal has awarded the compensation, only after appreciating the evidence let in by the appellant. The various amounts awarded by the Tribunal are just compensation and are not meager.

10.The learned counsel appearing for the appellant contended that the appellant under went surgery and plates were implanted and another surgery has to be done for removal of the plates. The Tribunal has not awarded any amount for future medical expenses. The said contention has considerable force. Considering the materials available on record, a sum of Rs.25,000/- is awarded towards future medical expenses. The amounts awarded by the Tribunal under all other heads are just and reasonable and 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.	Transportation	10,000	10,000	confirmed
2.	Extra nourishment	20,000	20,000	confirmed
3.	Permanent disability for 35%	1,05,000	1,05,000	confirmed
4.	Medical expenses	1,02,500	1,02,500	confirmed
5.	Pain and suffering	50,000	50,000	confirmed
6.	Attender Charges	10,000	10,000	confirmed
7.	Loss of amenities	20,000	20,000	confirmed
8.	Future Medical expenses	--	25,000	granted
	Total	3,17,500	3,42,500	Enhanced by Rs.25,000/-

11.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.3,17,500/- is hereby enhanced to Rs.3,42,500/-, with interest at the rate of 7.5% per annum from the date of petition till the date of realization. The respondents are directed to deposit the enhanced award amount with interest, 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 enhanced award amount, along with interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

arb/gsa

To

1.The Motor Accidents Claims Tribunal,
Puducherry.

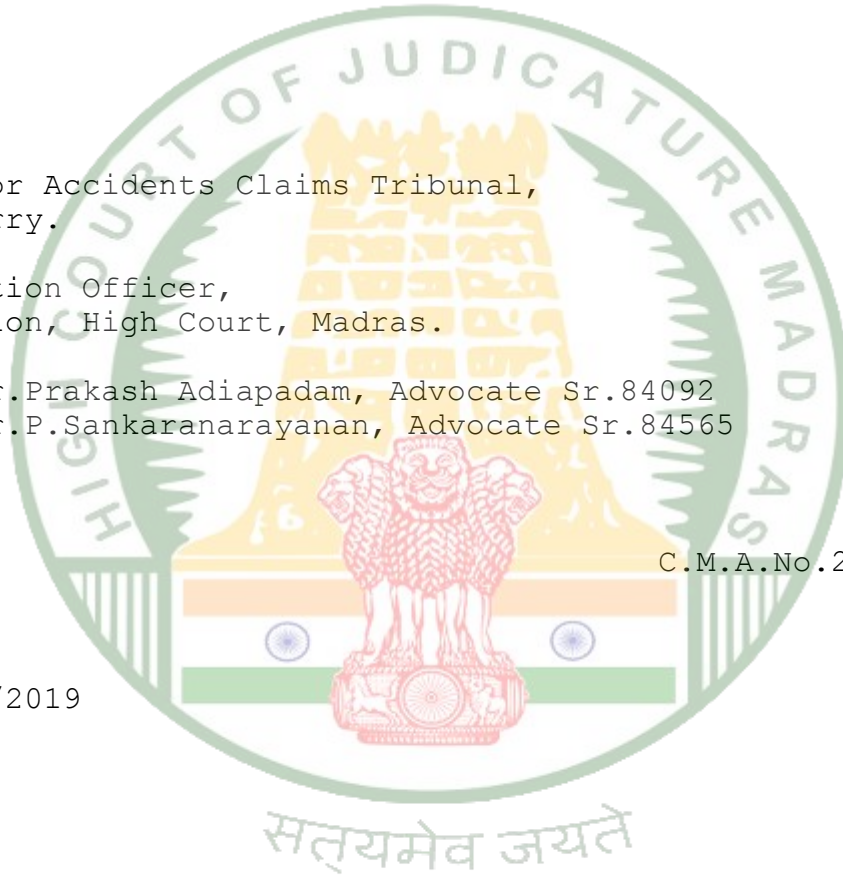
2.The Section Officer,
ER Section, High Court, Madras.

+1cc to Mr.Prakash Adiapadam, Advocate Sr.84092

+1cc to Mr.P.Sankaranarayanan, Advocate Sr.84565

C.M.A.No.2780 of 2018

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