



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.07.2018

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CMA(MD)No.643 of 2014

S.Vijaya

... Appellant

vs.

1) S.Ragupathi

2) The Divisional Manager,
National Insurance Co.Ltd.,
No.10, Door No.101-106,
No.1 BMC House,
Cannaught Place,
New Delhi.

... Respondents

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree made in MCOP.No.35 of 2012 on the file of the Motor Accident Claims Tribunal, (Chief Judicial Magistrate), Karur, dated 12.07.2013.

For Appellant : Mr.T.Selvakumaran
For R1 : No appearance
For R2 : Mr.J.S.Murali

JUDGMENT

The present appeal has been filed against the judgment and decree dated 12.07.2013 made in MCOP.No.35 of 2012 on the file of the Motor Accident Claims Tribunal, (Chief Judicial Magistrate), Karur.

2. In an accident which occurred on 18.01.2012, the appellant/claimant sustained injuries. She made a claim for compensation of Rs.3,00,000/-. The Tribunal awarded compensation of Rs.62,877/- with 7.5% interest per annum. Not satisfied with the quantum of compensation awarded by the Tribunal, the claimant has filed this appeal.

3. The contention of the learned counsel for the appellant is that when the Doctor has assessed the disability sustained by the appellant at 30%, it is not appropriate on the part of the Tribunal to reduce the same to 20%. Further, the Tribunal has awarded a meagre sum of Rs.2,000/- towards pain and suffering. Except the above, the award under other heads are not disputed.



4. Perusal of the record shows that in the accident, the appellant sustained fracture in right and left hip and other injuries. The Doctor who issued the disability certificate has opined that due to hip fracture, the claimant could not stand for long time and she is finding difficulty in squatting. So saying, the Doctor has assessed the disability at 30%. However, the Tribunal has reduced it to 20% and awarded compensation of Rs.40,000/- towards permanent disability, by awarding Rs.2,000/- per percentage of disability.

5. Needless to say, opinion of experts cannot be found fault with unless evidence contrary thereto is adduced. In the present case, there is no such evidence to reduce the percentage of disablement fixed by the Doctor. Hence, the percentage of disability at 30% by the Doctor is sustained and as per the judgment of this Court in National Insurance Company Limited vs. G.Ramesh, reported in 2013 (2) TN MAC 583, a sum of Rs.3,000/- is awarded for each percentage of disability which comes to Rs.90,000/-. Further, the award of Rs.2,000/- towards pain and suffering is meagre and the same is enhanced to Rs.10,000/-. Except the above, the award under other heads are confirmed. Accordingly, the total compensation is modified as apportioned hereunder:-

Permanent disability	=	Rs. 90,000/-
Pain and suffering	=	Rs. 10,000/-
Transportation	=	Rs. 1,000/-
Nutrition	=	Rs. 3,000/-
Medical Bills	=	Rs. 12,377/-
Loss of income	=	Rs. 4,500/-

Total	=	Rs. 1,20,877/-
(Less) Amount awarded by the Tribunal	=	Rs. 62,877/-

Enhanced compensation	=	Rs. 58,000/-

6. The appellant is entitled to enhanced compensation of Rs.58,000/- with 7.5% interest from the date of petition till the date of deposit. The 2nd respondent insurance company is directed to deposit the enhanced compensation of Rs.58,000/- in addition to the compensation of Rs.62,877/- awarded by the Tribunal with 7.5% interest per annum from the date of petition till the date of deposit, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant/claimant is permitted to withdraw the same without filing any formal petition before the Tribunal.

Accordingly, the Civil Miscellaneous Appeal is allowed in part.

No costs.



WEB COPY

3

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-I)

To

The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Karur.

Copy To:-

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.T.SELVAKUMARAN, ADVOCATE IN SR No. 71548
+ 1 CC TO Mr.J.S.MURALI, ADVOCATE IN SR No. 71244

BALA
TE/SKN/SAR-1 : 11/10/2018 : 3P/6C

CMA (MD) No.643 of 2014
04.07.2018