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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.07.2018

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD).No.960 of 2016

A.Vasanthakumari

... Appellant/Petitioner

Vs.

1.M.Satheesh

2.S.Arikrishnan

3.The Manager,

Oriental Insurance Co. Ltd.,

Nagercoil Branch,

Nagercoil Village,

Agasteeshwaram Taluk,

Kanyakumari District.

... Respondents / Respondents

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 08.01.2016, passed in M.C.O.P.No.47 of 2015 on the file of the Motor Accidents Claims Tribunal, Special Court, Nagercoil.

For Appellant : Mr.C.Sankar Prakash
For Respondents : Mr.K.Bhaskaran - for R3
No Appearance - for R1
: Dispensed with - for R2

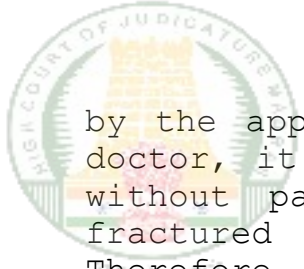
JUDGMENT

This Civil Miscellaneous Appeal has been filed challenging the award passed by the learned Special Judge, Motor Accidents Claims Tribunal, Nagercoil in M.C.O.P.No.47 of 2015, dated 08.01.2016.

2. Heard the learned Counsel appearing on either side and perused the records carefully.

3. It is a case of injury and the appellant/claimant, being dissatisfied with the compensation of Rs.1,95,000/- awarded by the tribunal, is before this Court, seeking enhancement. Though several grounds are raised in the memorandum of grounds, the main ground on which the appellant/claimant has filed this appeal is on quantum only.

4. The learned counsel for the appellant/claimant submitted that the tribunal ought to have awarded a reasonable amount as compensation by adopting multiplier method as the injury sustained



by the appellant is a permanent one and from the evidence of the doctor, it is very clear that the appellant could not eat anything without pain and difficulty, as the bone nearby the mouth is fractured and she has to face this pain throughout her life. Therefore, she prays for enhancement of compensation under the head of disability. The learned Counsel for the appellant further submitted that the tribunal has awarded only lesser amount under the head of pain and sufferings and loss of amenities. The learned Counsel for the appellant would submit that considering the fact that the claimant has sustained multiple injuries and she took treatment for 9 days as inpatient, the amount awarded under the above heads may be enhanced.

5. It is seen from the records that due to accident, the appellant/claimant sustained maxillary fracture and multiple injuries on all over the body. From the Doctor's evidence, it is seen that the disability of the claimant was assessed as 25%. The tribunal has also taken 25% as disability. The Tribunal has also rightly awarded Rs.3,000/- per percentage of disability, as per the decision of the Hon'ble Supreme Court in Vimal Kanwar Vs. Kishore Dan, reported in 2013 (1) TN MAC 641 (SC). I do not find any infirmity over the same. Admittedly, at the time of accident, the appellant/claimant was aged about 39 years and this Court, going by the facts of the case and after perusing the entire records, is of the view that the pain and sufferings awarded by the Tribunal is very reasonable and the award passed under the said head need not be interfered with.

6. The tribunal, having regard to the facts and circumstances of the case and after analyzing the evidences let-in by both the parties, in the interest of justice, has passed the award and therefore, this Court is of the considered view that the ground on which the present appeal came to be filed lacks merit and hence, this appeal is liable to be dismissed.

7. In the result, this Civil miscellaneous appeal is dismissed. The award passed by the tribunal in M.C.O.P.No.47 of 2015 dated 08.01.2016, is hereby confirmed. The third respondent is directed to deposit the entire compensation with interest @ 7.5% per annum from the date of claim petition, till the date of realisation, within a period of eight weeks from the date of receipt of a copy of this judgment, if not deposited already. On such deposit the appellant /claimant is permitted to withdraw the award amount with accrued interest and costs, less the amount already withdrawn by her, if any, by filing proper application before the Tribunal. No costs.

Sd/
Assistant Registrar

/True copy/



1.The Special Judge,
Motor Accidents Claims Tribunal,
Nagercoil.

2.The Record Keeper,
Vernacular Records Section,
Madurai Bench of Madras High Court,
Madurai. **(2 Copies)**

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