

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1322 of 2006

D.Catherin

.. Appellant /Petitioner

Vs.

1.D.Sivaprakasam

2.National Insurance Co. Ltd

No.751 Anna Salai,

Chennai - 600 006.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 31.12.2004 made in M.C.O.P.No.1456 of 2001 on the file of the Motor Accidents Claims Tribunal, IV Additional and Sessions Judge (Fast Track Court No.4), Chennai-1.

For Appellant : Mr.A.Shanmugaraj

For R2 : Mr.R.Ravichandran

J U D G M E N T

Being not satisfied with the quantum of compensation awarded by the Tribunal, the claimant has filed the present Civil Miscellaneous Appeal.

2.According to the appellant/claimant, on 16.02.2000 at about 6.00pm, when she was walking on Karapakkam Bazaar Road, an auto bearing Regn.No.TN 09 E 1067 belonging to the first respondent and insured with the second respondent insurance company, came in a rash and negligent manner and dashed against her. As a result of the same, the appellant sustained grievous injuries. She filed a claim petition, claiming compensation of Rs.1,25,000/-. The Tribunal, after considering the oral and documentary evidence, awarded a compensation of Rs.50,000/- only with interest at 9%pa from the date of petition. Aggrieved over the same, the appellant is before this Court with the present appeal seeking enhancement of the compensation awarded by the Tribunal.

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3.The learned counsel for the appellant/claimant submitted that the Tribunal has awarded a lesser sum of Rs.10,000/- towards 40% permanent disability and the same needs to be enhanced. The learned counsel further submitted that the compensation awarded under other heads are very meagre; and the Tribunal did not consider the gravity of injuries suffered by the claimant, while awarding compensation.

4.Per contra, the learned counsel for the second respondent/ Insurance Company submitted that after properly analysing the materials and evidence, the Tribunal has awarded the compensation, which is just and reasonable and hence, the same does not require any interference in the hands of this Court.

5.Heard the learned counsel on either side and perused the materials available on record.

6.The Tribunal has awarded Rs.5,000/- towards transport expenses and extra nourishment, Rs.5,000/- towards medical expenses, Rs.10,000/- towards pain and suffering, Rs.10,000/- towards permanent disability, Rs.10,000/- towards loss of earning capacity and Rs.10,000/- towards loss of income during treatment period, totalling to Rs.50,000/- in all. The claimant herself examined as P.W.1 and she deposed that in the accident, she had sustained fracture of right wrist and left collar bone and also contusion in left ankle; she was taken treatment from 16.02.2000 to 10.03.2000 in the Government Royapettah Hospital as inpatient; and she was 30 years and was earning Rs.90/- per day by working as Coolie in building construction. The evidence of the claimant relating to income and avocation was corroborated by her husband, who was examined as P.W.2. The doctor, who treated the claimant, was examined as P.W.3. Ex.P1 is the discharge summary; Exs.P4 -photo and P6-X Ray are pertaining to the injuries suffered by the claimant; and Ex.P5 is the disability certificate, as per which, the claimant sustained 40% permanent disability. Considering those oral and documentary evidence adduced, this Court is of the opinion that the compensation awarded by the Tribunal is very low and disproportionate to the gravity of injuries sustained by the claimant and hence, the same needs to be enhanced. Accordingly, it would be just and proper to award a sum of Rs.60,000/- towards permanent disability, at the rate of Rs.1,500/- per percentage of disability, Rs.10,000/- towards transport expenses and extra nourishment, Rs.10,000/- towards medical expenses, Rs.30,000/- towards pain and suffering and Rs.15,000/- towards loss of income during treatment period. In view of enhancing the award under the head "permanent disability" to Rs.60,000/-, the

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sum of Rs.10,000/- awarded by the Tribunal towards loss of earning capacity is unwarranted and the same is hereby deleted. The details of enhanced compensation amount read as follows:

Head	Compensation awarded by the Tribunal (Rs.)	Compensation enhanced by this Court (Rs.)
Permanent disability at 40%	10,000/-	60,000/-
Transport expenses and extra nourishment	5,000/-	10,000/-
Medical expenses	5,000/-	10,000/-
Pain and suffering	10,000/-	30,000/-
Loss of income during treatment period	10,000/-	15,000/-
Loss of earning capacity	10,000/-	---
Total	50,000/-	1,25,000/-

7. In view of the above, the award of the Tribunal is enhanced from Rs.50,000/- to Rs.1,25,000/- (Rupees One Lakh and Twenty Five Thousand Only). The second respondent / Insurance Company is directed to deposit the modified compensation amount with interest at 9%pa from the date of petition, after deducting the amount, if any, already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal shall transfer the same to the savings bank account of the appellant/claimant, within a period of one week thereafter.

8. Accordingly, this Civil Miscellaneous Appeal is allowed in part. No costs.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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To

1.Motor Accidents Claims Tribunal,
IV Additional and Sessions Judge
(Fast Track Court No.4), Chennai-1.

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

+1cc to Mr.A.Shanmugaraj, Advocate SR.45619

+1cc to Mr.R.Ravichandran, Advocate SR.45901

C.M.A.No.1322 of 2006

KJ(CO)
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