IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.4152 of 2005

K.Meenakshi Sundaram ... Appellant/Petitioner

Vs

1.A.Mohamed Nizar

2.The Divisional Manager,
M/s.United India Insurance Co.Ltd.,
Divisional Office, Nethaji Road,
Cuddalore-1. ... Respondents/Respondents

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 23.11.2004 made in MCOP No.115 of 2003 on the file of the Motor Accidents Claims Tribunal, Additional Sub Judge-I, Cuddalore.

For Appellant : Ms.M.Shakkira Banu

For Respondents : Ms.R.Rathna Thara for R2

JUDGMENT

The case in brief, is as follows:

On 18.02.2002, the appellant was proceeding in the motorcycle bearing Reg.No.PY-01-P-7844 in the Cuddalore - Chidambaram Main Road from East to West direction. At about 2.00 p.m., when he was nearing Thambikku Nallan Pattinam, the car bearing Reg.No.TN-27-T-4545 belonging to the first respondent and insured with the second respondent Insurance Company, came from the opposite direction in a rash and negligent manner at great speed and hit the appellant's motorcycle. Due to the said impact, the appellant sustained grievous injuries. The appellant filed a claim petition before the Tribunal claiming a sum of Rs.25,00,000/- as compensation. Considering the materials and evidence available on record, the Tribunal awarded a sum of Rs.2,36,000/- with interest at the rate of 9% per annum from the date of petition, as total compensation.

2.Challenging the same, the appellant/claimant has filed the present Civil Miscellaneous Appeal for enhancement of compensation.

3.The learned counsel for the appellant /claimant has submitted that the Tribunal has awarded a meagre compensation, when there are sufficient documents for awarding higher compensation. The Tribunal has erred in not adopting multiplier method while determining the loss of income.

4.The learned counsel for the second respondent Insurance Company has submitted that the Tribunal has correctly considered the materials and evidence available on record and correctly awarded the compensation, which is just, fair and reasonable and hence the judgment of the Tribunal does not require any interference in the hands of this Court.

5.Heard the learned counsel for the appellant / claimant and the learned counsel for the second respondent Insurance Company and perused the materials available on record carefully and meticulously.

6.Even though the Tribunal has awarded a total compensation of Rs.2,36,000/- with interest at the rate of 9% per annum from the date of petition, in the decree enclosed in the typed set of papers, it is stated as Rs.2,26,000/-.

7.The Tribunal has awarded a sum of Rs.85,000/- towards 85% disability at the rate of Rs.1,000/- per percentage of disability and Rs.73,000/- towards fixation of artificial leg. The Tribunal has also awarded a sum of Rs.3,000/- towards extra nourishment, Rs.25,000/- towards pain, shock and suffering and Rs.50,000/- towards loss of amenities. Considering the materials and evidence available on record, this Court deems it fit to enhance the amount awarded towards pain, shock and suffering from Rs.25,000/- to Rs.50,000/-, towards extra nourishment from Rs.3,000/- to Rs.10,000/- and to award a sum of Rs.10,000/- each towards transportation expenses and attendant charges. Further, it would be appropriate to award a sum of Rs.20,000/- towards future medical expenses, considering the fact that the injured had sustained many fractures and injuries and was on continuous treatment for a long period of time. The amounts awarded towards disability at Rs.85,000/-, towards fixation of artificial leg at Rs.73,000/- and towards loss of amenities at Rs.50,000/- stands confirmed. The details of the modified compensation are as follows:

HEAD	AMOUNT (Rs.)
Disability	85,000/-
Fixation of artificial leg	73,000/-
Loss of amenities	50,000/-
Future medical expenses	20,000/-
Pain, shock and suffering	50,000/-
Extra nourishment	10,000/-
Transportation expenses	10,000/-
Attendant charges	10,000/-
TOTAL...	3,08,000/-

Thus, the appellant / claimant is entitled to the modified compensation of Rs.3,08,000/-. The interest rate fixed by the Tribunal at the rate of 9% per annum from the date of petition is reduced to 7.5% per annum from the date of petition, since the prevailing rate of interest at the relevant point of time was 7.5%.

8.It is made clear that only for the compensation of Rs.2,36,000/- awarded by the Tribunal, the interest rate of 7.5% per annum shall be calculated from the date of claim petition. For the enhanced amount of Rs.72,000/-, the interest rate of 7.5% shall be calculated from the date of filing of this appeal.

9.The Civil Miscellaneous Appeal is allowed to the extent indicated above. No costs.

10.The second respondent Insurance Company is directed to deposit the modified compensation as ordered above, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant / claimant shall withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1.The Motor Accidents Claims Tribunal
Additional Sub Judge-I, Cuddalore.

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

+1cc to Mr.R.Sreedhar, Advocate Sr.71464
+1cc to Mr.Rathnathara, Advocate Sr.71628

C.M.A.No.4152 of 2005

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srg 05/02/2020