

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3602 of 2008

R.Pandeeswari : Appellant/Claimant

Vs.

1. M/s. Around The World Travel & Tours (P) Ltd.,
No.62/2, McNichals Road,
Chetpet, Chennai - 600 031.

2. The New India Assurance Co., Ltd.,
No.36, Moore Street, 'Regina Mansion'.
Chennai - 600 001. : Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 24.11.2006 and made in M.C.O.P.No.2053 of 2000, on the file of the Motor Accidents Claims Tribunal, IV Judge, Court of Small Causes, Chennai.

For Appellant	: Mr.J.Mahalingam
For R1	: No Appearance
For R2	: C.Ramesh Babu

J U D G M E N T

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

2.According to the appellant/claimant, on 08.11.1999 at about 22.15pm, when she was going as a pillion rider in a motorcycle bearing Regn.No.TN05-9191 on Village Road, the Maruti Car bearing Regn.No.TN01- M-5292 belonging to the first respondent and insured with the second respondent insurance company, came in a rash and negligent manner and dashed against the motorcycle. As a result of the same, the appellant sustained grievous injuries. She filed a claim petition, claiming a compensation of Rs.1,00,000/-. The Tribunal, after considering the oral and documentary evidence, awarded a compensation of Rs.45,000/- with interest at 7.5% per annum from the date of

petition. Feeling aggrieved over the quantum of compensation so awarded, the appellant is before this Court with the present appeal seeking enhancement of the same.

3.The learned counsel for the appellant/claimant submitted that the Tribunal has awarded a lesser sum of Rs.30,000/- for 30% permanent disability and the same needs to be enhanced. The learned counsel further submitted that the compensation awarded under other heads is very meagre and the same has to be enhanced substantially.

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.This is a claimant's appeal seeking enhancement of the compensation awarded by the Tribunal. Hence, this Court is not inclined to go into the findings of the Tribunal with respect of negligence as well as the liability of the second respondent insurance company to pay compensation.

7.As regards the quantum of compensation, the appellant/ claimant herself examined as P.W.1. She has stated in her evidence that she was aged about 33 years and was earning Rs.1,500/- per month as a Labourer in Crackers Work shop; due to the impact of the accident, she sustained compound fracture in the bones of right hand, abrasions over the neck and other grievous injuries all over the body. The doctor, who treated the claimant, was examined as P.W.2 and according to him, the appellant/claimant sustained 30% permanent disability. However, the Tribunal has taken the permanent disability of the appellant/claimant only at 25%, which is fair and just and the same is hereby confirmed. Ex.P6 is the disability certificate and Ex.P7 is X Ray. Considering those oral and documentary evidence adduced, this Court is of the opinion that the award of Rs.30,000/- by the Tribunal under the head "permanent disability and loss of earning capacity" appears to be inadequate and the same is hereby enhanced to Rs.50,000/- by awarding Rs.2,000/- per percentage of disability. Further, the Tribunal has not awarded any amount towards loss of amenities. Considering the nature of the injuries sustained and the period of treatment taken by the appellant/claimant, this Court is inclined to grant a sum of Rs.25,000/- towards loss of amenities and the same is hereby awarded, besides enhancing the compensation under the head "pain and suffering" from Rs.10,000/- to Rs.25,000/-.

There is no modification with regard to the award of Rs.2,000/- towards transport and extra nourishment and Rs.3,000/- towards loss of income during treatment period. 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 25% and loss of earning capacity	Rs.30,000/-	Rs.50,000/-
Transport expenses and extra nourishment	Rs.2,000/-	Rs.2,000/-
Pain and suffering	Rs.10,000/-	Rs.25,000/-
Loss of income during treatment period	Rs.3,000/-	Rs.3,000/-
Loss of amenities		Rs.25,000/-
Total	Rs.45,000	Rs.1,05,000/-

8. Accordingly, this Civil Miscellaneous Appeal is allowed in part. The award passed by the Tribunal is enhanced from Rs.45,000/- to Rs.1,05,000/-. The Second respondent/Insurance Company is directed to deposit the modified compensation amount with interest at 7.5% 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. No costs.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

av

To

1. The Motor Accidents Claims Tribunal,
The IV Judge, Court of Small Causes,
Chennai.

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

+1cc to C.Ramesh, Advocate, SR.No.54206.

C.M.A.No.3602 of 2008

GP(CO)
CSR: 11.03.2020