

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1511 of 2015

M.Dhanalakshmi ... Appellant /Claimant

Vs.

1.P.Murugan

2.V.Suresh Babu

3.The Divisional Manager,
National Insurance Co.Ltd.
I Floor, Karthikeya Complex
403, Mettur Main Road
Bhavani-638 301
Erode District. ... Respondents/Respondents

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 30.10.2014 made in MCOP No.201 of 2013 on the file of the Motor Accidents Claims Tribunal, Namakkal cum Chief Judicial Magistrate, Namakkal.

For Appellant :Mr.T.Murugamanickam Sr.C
for Ms.Zeenath Begum

For Respondents :No appearance for R2
Mrs.N.B.Surekha for R3

JUDGMENT

This appeal is preferred by the appellant/claimant against the award of a sum of Rs.85,672/- towards compensation due to the injuries sustained by her in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 11.12.2012 at about 8.00 p.m., the appellant / claimant was proceeding near Maduraiveeran Koil at Periasozhipalayam, Namakkal, by walk, the Hero Honda Splendor two-wheeler bearing Reg.No.TN-45-D-9997, belonging to the first respondent and insured with the third respondent Insurance Company, driven by its rider in a rash and negligent manner, came from the opposite direction and dashed against the appellant. Due to

the said impact, the appellant / claimant sustained grievous injuries. The appellant / claimant filed a claim petition before the Tribunal, claiming a sum of Rs.5,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.85,672/- with interest at the rate of 7.5% per annum from the date of petition.

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

4.The learned counsel for the appellant /claimant has submitted that the Tribunal has erred in not adopting the multiplier method in assessing the compensation. He further submitted that the amounts awarded towards other heads are also meagre. Stating so, the learned counsel prayed for enhancement of compensation.

5.The learned counsel for the third respondent Insurance Company has submitted that the Tribunal has rightly considered the materials and evidence available on record and has awarded the just, fair and reasonable compensation and hence the same does not require any interference in the hands of this Court.

6.Heard the learned counsel for the appellant and the learned counsel for the third respondent Insurance Company and perused the materials available on record carefully and meticulously.

7.The details of compensation awarded by the Tribunal are as follows:

HEADS	AMOUNT (Rs.)
Medical expenses	38,672/-
Transport to hospital	5,000/-
Loss of income during the treatment period	9,000/-
Pain and suffering	3,000/-
Partial permanent disability	30,000/-
TOTAL...	85,672/-

8.P.W.2-Doctor deposed before the Tribunal that the injured sustained 40% disability as she underwent surgery due to fracture of tibia and fibula bones. The Tribunal has reduced the percentage of disability fixed by P.W.2-Doctor on the ground that P.W.2 had not treated the injured. Considering the injuries sustained by the appellant / claimant, this Court is of the considered view that the percentage of disability fixed by P.W.2-Doctor appears to

be correct and it would be appropriate to award a sum of Rs.3,000/- per percentage of disability. If that is done, the compensation in respect of partial permanent disability works out to Rs.1,20,000/-. Accordingly, the amount awarded by the Tribunal towards partial permanent disability stands modified to Rs.1,20,000/-. In view of the injuries sustained, the appellant / claimant would have experienced a lot of pain and suffering, as it is seen that she took treatment / bed rest for a period of three months. It would be appropriate to enhance the amount awarded by the Tribunal towards pain and suffering to Rs.13,000/-. The amounts awarded towards other heads are confirmed.

9.The details of the modified compensation are as under:

HEADS	AMOUNT (Rs.)
Medical expenses	38,672/-
Transport to hospital	5,000/-
Loss of income during the treatment period	9,000/-
Pain and suffering	13,000/-
Partial permanent disability	1,20,000/-

TOTAL...	1,85,672/- =====

Thus, the appellant / claimant is entitled to the modified compensation of Rs.1,85,672/-. It is made clear that only for the compensation of Rs.85,672/- 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.1,00,000/-, the interest rate of 7.5% shall be calculated from the date of filing of this appeal.

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

11.The third respondent Insurance Company is directed to deposit the modified compensation as ordered above, less 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 being made, the appellant / claimant shall withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KM

To

1.The Motor Accidents Claims Tribunal, Judge,
Namakkal
cum Chief Judicial Magistrate, Namakkal.

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

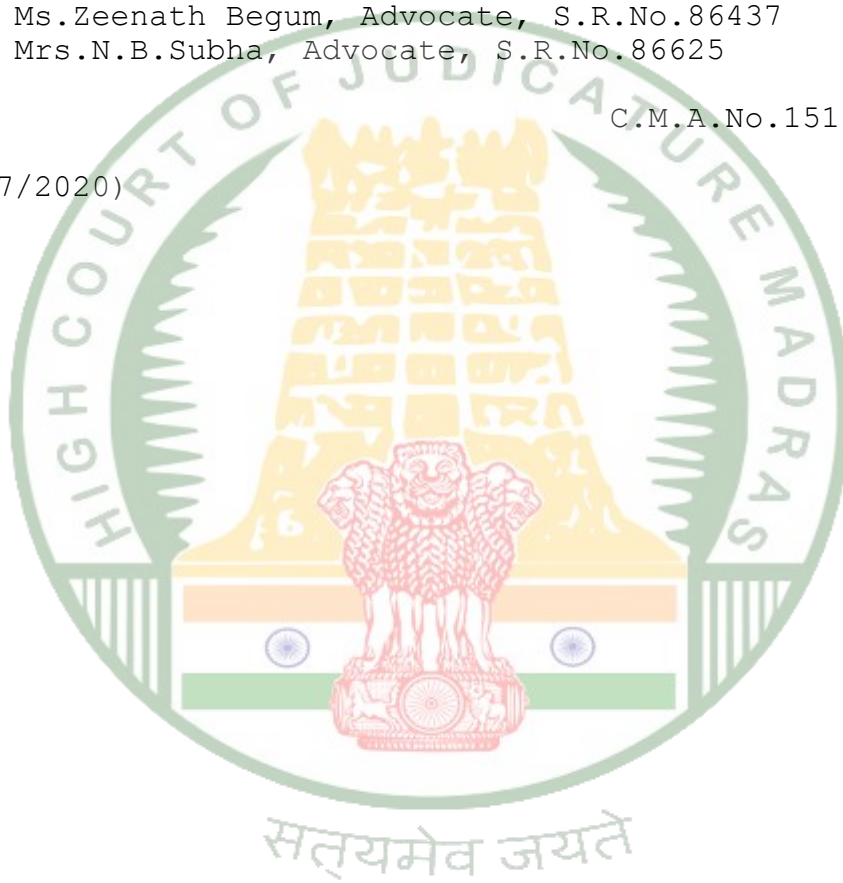
+lcc to Ms.Zeenath Begum, Advocate, S.R.No.86437

+lcc to Mrs.N.B.Subha, Advocate, S.R.No.86625

C.M.A.No.1511 of 2015

MP (CO)

CB (22/07/2020)



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