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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1704 of 2015

T.Deepa

.. Appellant

Vs.

1.The Managing Director
Dharmapuri District Co-operative
Milk Producers Union Ltd.,
Krishnagiri.

2.The Branch Manager
National Insurance Company Limited
305, Bangalore Road
Krishnagiri-635 001.

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 15.03.2012 made in M.C.O.P.No.10 of 2004 on the file of the Motor Accident Claims Tribunal, Principal Sub Court, Krishnagiri.

For Appellant : Mr.Mukund R.Pandiyan

For R1 : No appearance

For R2 : Ms.N.B.Surekha

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant/claimant seeking enhancement of compensation granted by the Tribunal in the award dated 15.03.2012 made in M.C.O.P.No.10 of 2004 on the file of the Motor Accident Claims Tribunal, Principal Sub Court, Krishnagiri.

2.The appellant is claimant in M.C.O.P.No.10 of 2004 on the file of the Motor Accident Claims Tribunal, Principal Sub Court,



Krishnagiri. She filed the said claim petition claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by her in the accident that took place on 14.10.2002. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the tanker lorry belonging to the 1st respondent and directed the 2nd respondent/Insurance Company being insurer of the said lorry to pay a sum of Rs.1,76,500/- as compensation to the appellant. Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

3.The learned counsel appearing for the appellant/claimant contended that the appellant sustained grievous injuries in the accident and she could not do the work as she was doing earlier. The Tribunal without considering the same, has awarded a meagre sum as compensation. The appellant was a student at the time of accident. The Tribunal ought to have adopted multiplier method for awarding compensation towards disability. The amounts awarded by the Tribunal towards pain and suffering, extra nourishment and attendant charges are meagre. The Tribunal has not awarded any amount towards loss of amenities. The interest awarded by the Tribunal at the rate of 6% is meagre and prayed for enhancement of compensation.

4.Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the appellant has not proved that she suffered functional disability. In view of the same, the Tribunal has awarded compensation towards disability by applying percentage method. The Tribunal after considering all the materials available on record in proper perspective, has awarded compensation, which is not meagre. The appellant has not made out any case for enhancement and prayed for dismissal of the appeal.

5.Heard the learned counsel appearing for the appellant as well as the 2nd respondent/Insurance Company and perused all the materials available on record.

6.From the materials available on record, it is seen that P.W.2/Doctor certified the disability of the appellant at 40%, the Tribunal fixed the disability as assessed by the Doctor and awarded a sum of Rs.80,000/- (Rs.2,000/- X 40%) towards disability by awarding Rs.2,000/- per percentage. The appellant has not proved that she suffered functional disability and the percentage method applied by the Tribunal is proper. The appellant contended that she has taken treatment in the hospital as in-patient from 15.10.2002 to 29.11.2002 for 45 days. A sum of Rs.7,000/- awarded by the Tribunal towards attendant charges is meagre and the same is enhanced to Rs.25,000/-. The Tribunal



has not awarded any amount towards loss of amenities and damage to clothes and this Court awards a sum of Rs.25,000/- and Rs.1000/- under those heads respectively. The amounts awarded by the Tribunal under other heads are just and reasonable and they are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Disability	80,000	80,000	Confirmed
2.	Pain and suffering	20,000	20,000	Confirmed
3.	Transportation	10,000	10,000	Confirmed
4.	Extra nourishment	10,000	10,000	Confirmed
5.	Attendant charges	7,000	25,000	Enhanced
6.	Future medical expenses	20,000	20,000	Confirmed
7.	Medical bills	29,500	29,500	Confirmed
8.	Loss of amenities	-	25,000	Granted
9.	Damage to clothes	-	1,000	Granted
	Total	1,76,500	2,20,500	Enhanced by Rs.44,000/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,76,500/- is hereby enhanced to Rs.2,20,500/- together with interest at the rate of 6% per annum from the date of petition till the date of deposit. The appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation. The 2nd respondent/Insurance Company is directed to deposit the entire award amount now determined by this Court along with interest and costs, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy



of this judgment. On such deposit, the appellant/claimant is permitted to withdraw the entire award amount along with interest and costs, less the amount if any, already withdrawn. No costs.

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Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

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To
1.The Principal Subordinate Judge
Motor Accidents Claims Tribunal,
Krishnagiri.

2.The Section Officer,
V.R. Section,
High Court, Madras.

+1 cc to M/s.Mukund R.Pandiyar Advocate sr40126
+1 cc to M/s.N.B.Surekha Advocate sr38972

C.M.A.No.1704 of 2015

ss(co)
aa31/10/2019