

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2019

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.1734 of 2013

Indira Gandhi

.. Appellant /Claimant

Vs.

1. K.Subramanian

2. S. Jayalakshmi

3.The Oriental Insurance Co. Ltd.,
Parimalam Complex,
Mettur Road, Erode.

.. Respondents /Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 28.09.2012 made in M.C.O.P.No.182 of 2011 on the file of the Motor Accidents Claims Tribunal/II Additional Sub Court, Erode for enhancement of compensation.

For Appellant	:	Mr.K.Goviganesan
For R1	:	Notice not ready
For R2	:	Notice served - No appearance
For R3	:	Mrs.R.Sreevidhya

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant-claimant against the award and decree dated 28.09.2012 made in M.C.O.P.No.182 of 2011 on the file of the Motor Accidents Claims Tribunal/II Additional Sub Court, Erode for enhancement of compensation.

2.The appellant is the claimant, who filed M.C.O.P.No.182 of 2011, on the file of the Motor Accidents Claims Tribunal/II Additional Sub Court, Erode, claiming a sum of Rs.1,00,000/- as compensation for the injuries sustained by her due to the accident that took place on 12.07.2010.

3.The Tribunal considering the pleadings, oral and documentary evidence, awarded a sum of Rs.12,000/- to the claimant as compensation.

4.Challenging the said order dated 28.09.2012 made in M.C.O.P.No.182 of 2011 on the file of the learned II Additional Sub Judge, (Motor Accident Claims Tribunal), Erode, the appellant/claimant has come out with this appeal.

5.The learned counsel appearing for the appellant contended that due to the accident the appellant's right clavicle bone was fractured and she sustained head injury. Immediately, she was taken to the Government Hospital, Erode and subsequently, she was admitted in various private hospitals for further treatment. Due to the accident, she has suffered permanent disability. For which, she could not able to do her work properly. The Doctor, who treated the appellant, has expired and therefore, he could not be examined before the Tribunal for proving the injuries sustained by the appellant. The Tribunal has failed to award any compensation under pain and sufferings, transportation, extra nourishment and damages to clothes and articles and awarded only a sum of Rs.12,000/- as compensation to the claimant, which is very low. Hence, the appellant prayed to enhance the compensation, awarded by the Tribunal.

6.Per contra, the learned counsel appearing for the 3rd respondent-Insurance Company contended that the first respondent had no driving license to drive the bus bearing Registration No.TN 33 AA 1919 and the RC. Book And FC. were not valid on the date of accident. The appellant has not proved that she was traveling in the said bus as passenger at the time of the accident. The appellant has not stated any details of the injuries, period and manner of the treatment and she has not filed any documentary evidence regarding her injuries, treatment and expenses in support of her claim. Further, the learned counsel submitted that the appellant was not treated at Private hospital as alleged in the claim petition. The entire allegation of the appellant is not true. To get a large amount of compensation, she has filed this case. However, the Tribunal has awarded a sum of Rs.12,000/- on higher side and hence, he prayed for dismissing the appeal.

7.Heard the learned counsel for the appellant as well as the 3rd respondent and also perused the materials available on record.

8. The appellant is the claimant and the third respondent is the Insurance Company. The case of the appellant is that on 12.07.2010 at about 8.00 P.M., the appellant was traveling in the bus bearing Registration No.TN 33 AA 1919 as a passenger

from Kavindapadi to Erode. The bus was driven by the driver viz., first respondent, in a rash and negligent manner and suddenly, the bus was capsized at Chettipalayam Bridge. Due to the accident, the appellant's right clavicle bone was fractured and she sustained injury all over her body.

9.From the materials on record, it is seen that the appellant in the FIR as well as in the claim petition has stated that the appellant was traveling in the said bus belonging to the 2nd respondent, capsized the bus at Chettipalayam Bridge and she sustained injuries due to the accident. In the claim petition, the appellant has stated that she took first aid in the Government Hospital and subsequently, she was admitted as in-patient in the Dr.Rajesh Hospital, Erode and thereafter, Ganga Hospital, Coimbatore for further treatment. But the appellant has not produced any documents relating to treatment taken by her. The Tribunal, considering these fact, awarded a sum of Rs.12,000/- to the claimant. The Tribunal has given valid and cogent reason for awarding the said claim as compensation. In view of the same, there is no reason to interfere with the said finding given by the Tribunal.

10.In the result, the Civil Miscellaneous Appeal is dismissed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

rl
To

The Motor Accidents Claims Tribunal/
II Additional Sub Court, Erode

copy to
The Section Officer
VR Section
High Court, Madras-104

+1 cc to M/s.R.Sree vidhya Advocate sr101755
+1 cc to M/s.K.Govi Ganesan Advocate sr100876

C.M.A.No.1734 of 2013

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