

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 28.03.2019

Pronounced on : 18.07.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.1761 of 2012

Mathi ... Appellant / Petitioner

Versus

1. C.Arumugam  
(Notice for R1 dispensed with, since  
R1, remained ex-parte before the Tribunal)
2. ICICI Lombard General Insurance Company Ltd.,  
Swarnampigai Plaza, Omalur Main Road, Salem.
3. The Managing Director,  
Tamil Nadu State Transport Corporation Ltd.,  
No.12, Ramakrishna Road, Salem - 7.  
( Given up) ... Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 26.07.2011 and made in MCOP.No.211 of 2008 on the file of the Motor Accidents Claims Tribunal cum Chief Judicial Magistrate, Salem for enhancement of compensation.

For Appellant : Mr.C.Kulanthaivel

For Respondents : Mrs.R.Sreevidhya (for R2)

: Exparte - R1

: Given up - R3

JUDGMENT

The claimant is the appellant herein, seeking enhancement of compensation awarded in MCOP.No.211 of 2008.

2.The factum of the accident, the manner of the accident and the finding of the Tribunal that the accident took place due to

the rash and negligent driving of the driver of the first respondent's vehicle, which is insured with the second respondent herein, are not in dispute, and hence, the same are hereby confirmed.

3.The third respondent/State Transport Corporation has been exonerated from the liability before the Tribunal.

4.On the point of compensation, both parties are heard.

5.PW.1-Mani/ husband of the claimant has categorically deposed that due to the accidental injuries, his 5 teeth of the claimant fell from the upper jaw and 5 teeth fell from the lower jaw and she suffered disfigurement on the face and also underwent treatment and she has difficulty to even munch the food.

6.PW.2/Dr.Shanmugapriya, deposed that based upon PW.6/Discharge summary issued by the CMC, Hospital, Vellore, on her examination, it is found that the claimant had sustained a fracture on the lower jaw, loss of teeth, due to which the claimant's face was disfigured and she lost her grip and movement of mouth to the considerable extent. Hence, the disability suffered by the claimant was assessed at 45%, and the disability certificate was marked under Ex.A10.

7. Considering the date of the accident, this Court grants a sum of Rs.1,500/- per percentage of disability at 45%, which is arrived at Rs.67,500/- (Rs.45% x 1500). Taking note of the injuries a sum of Rs.10,000/- is awarded towards pain and suffering; a sum of Rs.10,000/- is awarded towards Transportation; a sum of Rs.7,000/- is awarded towards Extra-nourishment. That apart, as per Ex.P8/medical bill, the Tribunal awarded a sum of Rs.6,500/- towards medical expenses and the same has to be enhanced to Rs.7,500/-. Apart from that this Court feels it just and proper to grant a sum of Rs.5,000/- towards Attender charges; a sum of Rs.7,000/- towards Loss of Amenities. Thus, the award of the Tribunal is enhanced and modified as tabulated hereunder:-

| Description        | Amount awarded by Tribunal | Amount awarded by this Court |
|--------------------|----------------------------|------------------------------|
| Disability         | Rs.45,000/-                | Rs.67,500/-                  |
| Loss of income     | Rs.13,500/-                | Rs.13,500/-                  |
| Pain and suffering | Rs.7,500/-                 | Rs.10,000/-                  |
| Transportation     | Rs.3,000/-                 | Rs.10,000/-                  |
| Extra-nourishment  | Rs.3,000/-                 | Rs.7,000/-                   |

|                        |             |               |
|------------------------|-------------|---------------|
| Medical bill Ex.P7     | Rs.7,500/-  | Rs.7,500/-    |
| Medical expenses Ex.P8 | Rs.6,500/-  | Rs.7,500/-    |
| Attender charges       | -           | Rs.5,000/-    |
| Loss of Amenities      | -           | Rs.7,000/-    |
| Total                  | Rs.86,000/- | Rs.1,35,000/- |

In the result,

(i) this Civil Miscellaneous Appeal is partly allowed and the compensation amount of Rs.86,000/- awarded by the Tribunal is hereby enhanced to Rs.1,35,000/-.

(ii) the second respondent/Insurance Company is directed to deposit the enhanced compensation amount as awarded by this Court, with interest at the rate of 7.5% per annum, after adjusting the amount, if any, already deposited, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iii) on such deposit, the appellant/claimant is entitled to withdraw the same, by making necessary application before the Tribunal.

(iv) the appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation. No costs.

Sd/-  
Assistant Registrar (CS-V)

//True Copy//

klt  
To

Sub Assistant Registrar

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

copy to: The Section Officer,  
VR Section, High Court, Madras.

+1 cc to Mr.C.Kulanthaivel, Advocate, S.R.No.61436

+1 cc to Mr.R.Sreevidhya, Advocate, S.R.No.62018

Judgment in  
CMA.No.1761 of 2012

BS(CO)  
SSM(15/11/2019) ///SSM(21/11/2019) .