



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1237 of 2016

K.Dhanalakshmi

.. Appellant/
Petitioner

Vs.

1. C.Murugan

2. The Reliance General Insurance Company Ltd.,
23, "Heavitree" Unit No.1,
III Floor, Spur Tank Road,
Chetpet, Chennai-600 031.

.. Respondents/
Respondents

Prayer:

This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 22.07.2015 and made in M.C.O.P.No.1294 of 2012, on the file of the Motor Accidents Claims Tribunal, V Court of Small Causes, Chennai.

For Appellant : Mr.J.Ramkumar

For R2 : Mr.S.Arunkumar

J U D G M E N T

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the award dated 22.07.2015 and made in M.C.O.P.No.1294 of 2012, on the file of the Motor Accidents Claims Tribunal, V Court of Small Causes, Chennai.

2.The appellant is claimant in M.C.O.P.No.1294 of 2012, on the file of the Motor Accidents Claims Tribunal, V Court of Small Causes, Chennai. She filed the said claim petition claiming a sum of Rs.1,50,000/- as compensation for the injuries sustained by her in the accident that took place on 17.10.2011. 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 share auto belonging to the 1st respondent and directed the 2nd respondent being the insurer of the 1st respondent's vehicle, to pay a sum of



Rs.30,000/- 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.

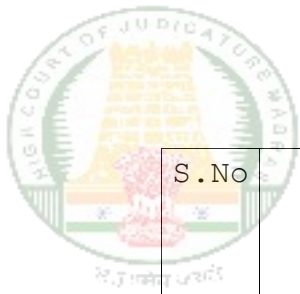
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3.The learned counsel appearing for the appellant contended that the Tribunal without considering the oral and documentary evidence let in by the appellant, awarded meagre sum of Rs.30,000/- as compensation as against the claim of Rs.1,50,000/-. The appellant was a tailor and earning a sum of Rs.5,000/- per month. Due to the injuries sustained by the appellant in the accident she could not do the work as she was doing earlier. The Tribunal has not awarded any amount for loss of income. The appellant examined P.W.4-Doctor who assessed the disability suffered by the appellant as 15% and deposed the nature of injuries sustained by the appellant. The accident is of the year 2011. The Tribunal has awarded only Rs.2,000/- per percentage and awarded compensation towards disability. The Tribunal ought to have awarded Rs.3,000/- per percentage of disability. The Tribunal has not awarded any amount for pain and suffering, extra nourishment, loss of amenities, loss of dependency and attendant charges and prayed for enhancement of compensation.

4.Per contra, Mr.S.Arunkumar, the learned counsel appearing for the 2nd respondent contended that the appellant sustained only simple injuries and there is no bone injuries. The Tribunal considering the evidence of P.W.4-Doctor granted compensation which is not meagre and prayed for dismissal of the appeal.

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

6.From the materials available on record, it is seen that the Tribunal has awarded consolidated compensation of Rs.30,000/-. The appellant examined P.W.4-Doctor and produced Ex.P16-disability certificate. P.W.4-Doctor certified that appellant has suffered 15% disability. Considering the evidence of P.W.4-Doctor and all the materials on record, it is seen that the Tribunal has not awarded any amount for disability. The appellant is entitled to compensation for 15% disability. A sum of Rs.45,000/- is granted towards disability at the rate of Rs.3,000/- per percentage for 15%. The Tribunal has awarded consolidated sum of Rs.30,000/- towards loss of income, pain and suffering, transportation, extra nourishment, damages to clothes and loss of earning and the same is confirmed. Thus, the amounts granted 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.	Loss of Income, Transportation, Extra Nourishment, Damages to Clothes, Loss of Earning and Pain and Suffering	30,000	30,000	Confirmed
2.	Disability	-	45,000	Granted
	Total	30,000	75,000	Enhanced by Rs.45,000/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.30,000/- is hereby enhanced to Rs.75,000/- together with interest at the rate of 7.5% 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 enhanced award amount along with interest and costs now determined by this Court, 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 is permitted to withdraw the enhanced award amount along with interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

rst/gbi

To

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



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

+1cc to Mr.S.Arunkumar, Advocate, S.R.No.22033

+1cc to Mr.J.Ramkumar, Advocate, S.R.No.22415

C.M.A.No.1237 of 2016

RSI (CO)
CS/18/10/2019
CS/11/11/2019