

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKA RAMAN

C.M.A.No.3198 of 2011

D.Rukumani

...Appellant

Vs.

1.The Commissioner of Police,
Egmore, Chennai 600 008.

2.The Director General of Police,
Human Rights social Justice,
C.I.D., Chennai 600 004.

3.The Deputy Superintendent of Police,
Protection of Civil Rights Supervisor Squad,
Chennai Zone at St. Thomas Mount,
Chennai 600 016.

4.The Inspector General of Police,
Kamarajar Salai,
Chennai 600 004.

(2 to 4 Respondents are impleaded as per Order
in M.P.No.1276 of 2009 dated 04.01.2010) ... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree dated 04.02.2011, in M.C.O.P.No. 2544 of 2005, on the file of the Motor Accidents Claims Tribunal, V Judge, Small Causes Court, Chennai.

For Appellant : Mr.A.Shanmugaraj

For Respondents : Mr.S.Jaganathan,
Government Advocate (C.S)

JUDGMENT

The appellant is the claimant in M.C.O.P.No. 2544 of 2005, on the file of the Motor Accidents Claims Tribunal, V Judge, Small Causes Court, Chennai. She has filed the above said claim petition under Section 163 (A) of the Motor Vehicles

Act, 1988, seeking compensation of Rs.2,00,000/- for the injuries sustained by her in a road accident that took place on 13.08.2004.

2. The brief case of the appellant/claimant is as follows:

(i) The appellant/claimant was aged 29 years on the date of the accident. She was working as a 'Sithal' in building constructions, earning a sum of Rs.90/- per day.

(ii) On 13.08.2004, at about 10.00 am., when the appellant/ claimant was walking along the Jeenis road from west to east direction, a police jeep bearing Registration No. TN 07 G 2466, owned by the first respondent, being driven by its driver in a rash and negligent manner, came on the way and dashed against the appellant/claimant on the back side due to which, she sustained injuries in the right eye lid and head for which the respondents are liable to pay the compensation to her.

3. Before the Tribunal, on the sided of the appellant/claimant PW1 and PW2 were examined and Ex.P1 to Ex.P11 were marked. On the side of the respondents RW1 was examined and no exhibits were marked. After going through the oral and documentary evidence adduced before the Court, the Tribunal awarded a sum of Rs.1,08,100/- together with interest at the rate of 7.5% per annum and directed the second respondent to pay the said compensation to the appellant/claimant. Not satisfied with the quantum of compensation awarded by the Tribunal, the claimant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

4. Heard both sides and perused the materials available on the record.

5. As the claim petition was filed under Section 163 (A) of the Motor Vehicles Act, 1988, the Tribunal has held that, there is no necessity for the appellant/claimant to prove the negligence on the part of the driver of the police Jeep bearing Registration No. TN 07 G 2466, and since, the said jeep was involved in the accident, due to which, the appellant/claimant had sustained injuries, it has held that the respondents are liable to pay compensation to the appellant/claimant and the same is hereby confirmed.

6. On the point of quantum of compensation, heard both the parties. On perusal of the wound certificate issued by the Government Hospital, Saidapet (Ex.P2) and OP Chit issued by the Government Eye Hospital, Egmore, Chennai (Ex.P3), it is seen that the appellant/claimant was initially given treatment for the injuries sustained in the accident in the Government Hospital, Saidapet and thereafter, that she was treated as an outpatient for right eye brow tear of 7 x 0.5 cm in the

Government Eye Hospital, Egmore, Chennai. It is seen from the OP Chit issued by the Government Hospital, K.K.Nagar, that she was referred to the said hospital also. It is seen from the discharge summary issued by the Government General Hospital, Chennai (Ex.P5) that the appellant/ claimant took treatment as an inpatient from 14.08.2004 to 15.08.2004 for contusion in the right upper eye lid, abrasion over right side lip, abrasion over right side of cheek and tenderness over left thigh. It is noticed from the discharge summary issued by the Government Eye Hospital, Chennai (Ex.P8) that the appellant/claimant was admitted to Government Ophthalmic Hospital on 08.12.2005 and discharged on 12.12.2005 where she was treated for the eye injury. It also appears from Ex.P8 that, the surgery was performed at ophthalmic hospital.

7. The disability certificate issued by Dr.R.Rajappa, Ophthalmic surgeon (Ex.P11) shows that the doctor has assessed the disability at 20%. After going through the exhibits P5, P8, P9 and P11 and also the oral evidence of PW2, doctor, this Court is of the considered view that the functional disability suffered by the appellant/claimant may be re-assessed and fixed at 30%. The age of the appellant/claimant is 29 years, the notional income is fixed at Rs.2,700/- per month and as per the II schedule of the Motor Vehicles Act, 1988, the proper multiplier to be adopted in the instant case is 18. Accordingly, the 'pecuniary loss' sustained by the appellant/claimant is calculated below.

Calculation:

Pecuniary loss = Rs.2,700/- x 12 x 18 x 30/100
= Rs.1,74,960/-

8. Since the claim petition is filed under the Section 163 (A) of the Motor Vehicles Act, 1988, all the other heads awarded by the Tribunal are kept intact.

9. In the result, सत्यमेव जयते

(i) The Civil Miscellaneous Appeal is partly allowed to the limited extent indicated above. No costs.

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.1,08,100/- to Rs.1,95,560/-.

(iii) The appellant/claimant is directed to pay the court fee for the enhanced compensation amount, if any, and the Registry is directed to draft the decree only after the receipt of court fee.

(iv) The second respondent herein is directed to deposited the enhanced compensation amount awarded by this court, i.e., Rs.1,95,560/- (if not already deposited) together

with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No. 2544 of 2005, dated 04.02.2011, on the file of the Motor Accidents Claims Tribunal, V Judge, Small Causes Court, Chennai within a period of twelve weeks from the date of receipt of a copy of this order.

(v) On such deposit being made by the second respondent herein, the appellant/claimant is permitted to withdraw the same, in the manner known to law.

Sd/-

Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

mbi

To

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

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

+1cc to Mr.A.Shanmugaraj, Advocate SR.No.23400

+1cc to Special Government Pleader(CS) SR.No.22526

C.M.A.No.3198 of 2011

VSN II(CO)
GMY(06/08/2019)

WEB COPY