

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1527 of 2016

Parveen

...Appellant/Petitioner

Vs

1.Sultan Syed Ibrahim

2. ICICI Lombard General Insurance Co., Ltd.

Motor Third Party Claims,

Chotabai Centre, 2nd and 3rd Floors,

No.140, Nungambakkam High Road,

Chennai - 34

..Respondents/Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicle Act, 1988, against the judgment and decree dated 04.07.2014 made in M.C.O.P.No.1963 of 2013 on the file of Motor Accidents Claims Tribunal, IV Small Causes Court, Chennai.

For Appellant : Mr.K.Varadhakamaraj

For R2 : Mrs.R.Sree Vidhya

R1 : Not Ready Notice

J U D G M E N T

This Civil Miscellaneous Appeal is filed by the appellant/claimant seeking enhancement of compensation granted by the Tribunal in the award dated 04.07.2014 made in M.C.O.P.No.1963 of 2013 on the file of Motor Accidents Claims Tribunal, IV Small Causes Court, Chennai.

2.The appellant is claimant in M.C.O.P.No.1963 of 2013 on the file of Motor Accidents Claims Tribunal, IV Small Causes Court, Chennai. She filed the above 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 16.09.2012. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent riding by the rider of the motorcycle belonging to the 1st respondent and directed the 2nd respondent/Insurance Company

being insurer of the said motorcycle to pay a sum of Rs.1,10,000/- 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.

3.The learned counsel appearing for the appellant/claimant contended that the Tribunal has reduced the disability assessed by the Doctor from 40% to 35% without any basis. The amounts awarded by the Tribunal towards pain and suffering, disability, transportation and extra nourishment are meagre. The Tribunal has not awarded any amount towards future medical expenses, future loss of earning, attendant charges and loss of amenities and prayed for enhancement of compensation.

4.Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the Tribunal after considering all the materials available on record, has awarded compensation, which is not meagre. The appellant has not made out any case for enhancement of compensation 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/Insurance Company and perused all the materials available on record.

6.From the materials available on record, it is seen that according to the appellant, she has suffered left temporal bone fracture and multiple injuries all over the body. She has taken treatment in the hospital from 16.09.2012 to 03.10.2012. She could not do the work as she was doing earlier. PW2/Doctor has certified the disability of the appellant at 40%. The Tribunal has reduced the percentage of disability to 35% as disability may vary from one Doctor to another. This Court fixes the disability of the appellant at 40% and awards a sum of Rs.1,20,000/- (Rs.3,000/- X 40%) by fixing a sum of Rs.3,000/- per percentage of disability. The Tribunal has not awarded any amounts towards attendant charges, loss of amenities and damage to clothes. This Court awards a sum of Rs.10,000/- towards attendant charges, Rs.10,000/- towards loss of amenities and Rs.1,000/- towards damage to clothes. A sum of Rs.5,000/- awarded by the Tribunal under the head of extra nourishment is meagre and the same is hereby enhanced to Rs.10,000/-. The amounts awarded by the Tribunal under all the other heads are just and reasonable and the same 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	70,000	1,20,000	Enhanced
2.	Loss of income during treatment period	15,000	15,000	Confirmed
3.	Pain and suffering	15,000	15,000	Confirmed
4.	Extra nourishment	5,000	10,000	Enhanced
5.	Transportation	5,000	5,000	confirmed
6.	Loss of amenities	-	10,000	Granted
7.	Damage to clothes	-	1,000	Granted
8.	Attendant charges	-	10,000	Granted
	Total	Rs.1,10,000/-	Rs.1,86,000/-	Enhanced by Rs.76,000/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,10,000/- is hereby enhanced to Rs.1,86,000/- 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 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 enhanced award amount along with interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-

Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

Kj

To

1.IV Judge
The Motor Accident Claims Tribunal
Small Causes Court, Chennai.

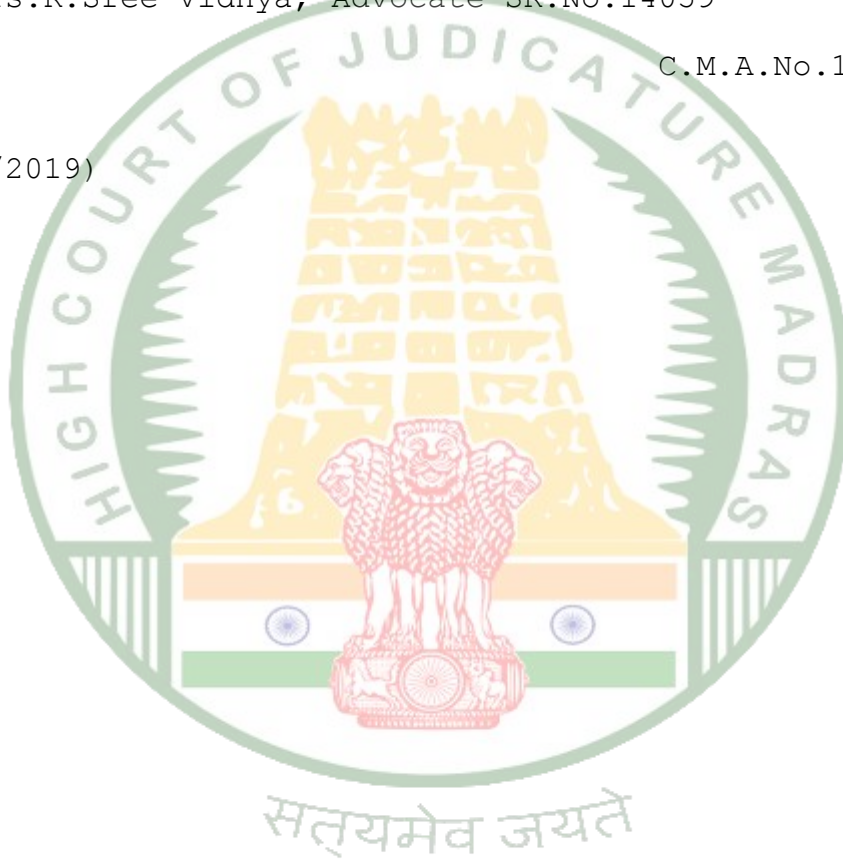
2.The Section Officer
V.R.Section, High Court, Chennai.

+1cc to Mr.K.Varadhakamaraj, Advocate SR.No.12729

+1cc to Mrs.R.Sree Vidhya, Advocate SR.No.14059

C.M.A.No.1527 of 2016

LN(CO)
GMY(07/11/2019)



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