



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.02.2019

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A. No. 3866 of 2011

Mohana ... Appellant
Versus
1. V. Neelakrishnan
2. United India Insurance Co., Ltd.,
No.38, Anna Salai, III Floor
Chennai - 600 002 .. Respondents

Prayer: Civil Miscellaneous appeal filed under Section 173 of The Motor Vehicles Act, 1988 against the Judgment and Decree dated 17.03.2011 made in MACT.O.P.No.4795 of 2006 on the file of VI Small Causes Court (Motor Accidents Claims Tribunal), Chennai.

For Appellant : Mr.K.Ayyadurai
for Mr. N.M. Muthurajan
For Respondent : Ex-parte before the Tribunal (for R1)
: Mr.D.Bhaskaran (for R2)

JUDGMENT

Not being satisfied with the quantum of compensation awarded by the Tribunal in and by the award dated 17.03.2011 passed in MACTOP No. 4795 of 2006 filed by her, the claimant has come up with this appeal seeking enhancement.

2.According to the claimant, on 13.09.2006, when the claimant was standing near Southern side platform of Arcot Road, Kodambakkam to cross the road, the driver of the Motor Cycle bearing Registration No.TN-10-F-7459 drove it in a rash and negligent manner and hit the claimant. In the impact, the claimant suffered head injuries, a severe injury in her right hand and multiple injuries all over her body. At the time of accident, the claimant was aged 27 years, and undertaking tailoring work through which, she earned Rs.250/- per day. Claiming that she could not take up her employment as before, she filed the claim petition claiming a sum of Rs.5 lakhs as compensation.

3.The Insurance company resisted the claim petition by way of filing a counter affidavit and contended that the accident did not occur as portrayed by the claimant and that the claimant is put to strict proof with respect to the involvement of the two wheeler in the accident. Hence, the insurance company denied the averments with respect to age, occupation and the injuries sustained by the claimant in the accident.



4. Before the Tribunal, the claimant examined herself as PW1 and Dr. M. Saravana bavanandham was examined as PW2 and Exs. P1 to P8 were marked. On behalf of the respondents in the claim petition, neither any witness was examined nor any document was marked. The Tribunal, on analysing the oral and documentary evidence adduced by the claimant and taking note of Ex.P1, First Information Report, concluded that the accident had caused due to the rash and negligent driving of the driver of the two wheeler, which was insured with the second respondent insurance company. Taking note of the income of the claimant at Rs.4,500/- per month and the disability assessed by PW2/Doctor, at 25%, the Tribunal awarded a total sum of Rs.1,05,530/- as compensation. Contending that the amount awarded by the Tribunal is meagre and not befitting to the nature of injuries sustained, the claimant has come up with this appeal.

5. The learned counsel appearing for the appellant/claimant would contend that the sum of Rs.13,500/- awarded by the Tribunal towards loss of earning is very low. The Tribunal did not take note of the nature of injuries sustained by the claimant, period of hospitalisation and the future medical treatment required to be taken by the claimant. Though the Tribunal awarded Rs.8,000/- towards attendant charges and Rs.5,000/- towards Extra Nourishment, such amount awarded is very meagre and it is required to be enhanced.

6. On the above contentions, this Court heard the learned counsel for the Insurance Company. The learned counsel appearing for the second respondent/Insurance Company would only contend that the amount awarded by the Tribunal as compensation to the claimant is fair and reasonable and prayed for dismissal of the appeal.

7. Heard both sides and perused the materials placed on record.

8. After perusing the records, it is seen that even though the Tribunal taken a sum of Rs.4,500/- per month as the notional earning of the claimant, yet, it has granted only a sum of Rs.13,500/- towards loss of earning for a period of about 13 days from 13.09.2006 to 25.09.2006, during which period the claimant was admitted as an in-patient in Government Hospital, Chennai. Having regard to the period of hospitalisation and the injuries sustained by the claimant on her head, this Court feels that the compensation awarded under the head "loss of earning" for the period of treatment, shall be enhanced from Rs.13,500/- to Rs.18,000/- which will be a fair compensation. Similarly, the award of compensation under the head "permanent disability" is also enhanced from Rs.50,000/- to Rs.60,000/-.

9. Similarly, the Tribunal awarded Rs.3,000/- towards Transportation, Rs.5,000/- towards extra nourishment and Rs.8,000/- towards Attendant charges. The amount awarded under



these heads, in the opinion of this Court has to be enhanced, to meet the ends of justice. Thus, this Court re-fixes and enhances the award as follows:-

	Amount awarded by the Tribunal	Amount Modified and enhanced by this Court
Loss of Income	Rs.13,500/-	Rs.18,000/-
Transportation	Rs.3,000/-	Rs.10,000/-
Extra Nourishment	Rs.5,000/-	Rs.10,000/-
Damage to cloths & articles	Rs.1,000/-	Rs.1,000/-
Attendants charges	Rs.8,000/-	Rs.10,000/-
Private Medicine purchased	Rs.30/-	Rs.30/-
Pain and suffering	Rs.25,000/-	Rs.25,000/-
Permanent disability	Rs.50,000/-	Rs.60,000/-
Total	Rs.1,05,530/-	Rs.1,34,030/-

10. In the result, the Civil Miscellaneous Appeal is partly allowed by enhancing the amount awarded by the Tribunal from Rs.1,05,530/- to Rs.1,34,030/- as tabulated above, with interest at the rate of 7.5% per annum from the date of petition till the date of realization. The Insurance company is directed to deposit the enhanced award amount along with 7.5% interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this Judgement. On such deposit being made, the appellant/claimant is permitted to withdraw the entire amount along with said interest and costs, after adjusting the amount if any, already withdrawn. The appellant is directed to pay necessary Court fee, if any, on the enhanced compensation. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To,

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

Copy to
The Section Officer,
VR Section, High Court, Chennai.

+1cc to Mr.M.Muthuraman , Advocate SR.No. 12620

+1cc to Mr.D.Bhaskaran , Advocate SR.No. 13231

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CMA.No.3866 of 2011

A.SK(26/11/2019)