

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.02.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.611 of 2011

Bhakiam

.. Appellant/Petitioner

Vs.

1.Veerasamy

2.Sekar

3.Iffco-Tokio General Insurance Co.Ltd.,

Tulsi Chambers III Floor,

T.V.Samy road west,

R.S.Puram, Coimbatore-2

.. Respondents/Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 as amended by Act 54 of 1994 to set aside the order made in M.C.O.P.No.189 of 2008 on the file of the Motor Accident Claims Tribunal Cum Sub Court, Bhavani dated 23.06.2010 and for enhancement of compensation.

For Appellant : Mr.C.Kulanthaivel

For R1&R2 : Given up

For R3 :Mr.N.Vijayaraghavan

JUDGMENT

This Civil Miscellaneous Appeal has been filed to set aside the order made in M.C.O.P.No.189 of 2008 on the file of the Motor Accident Claims Tribunal Cum Sub Court, Bhavani dated 23.06.2010 and for enhancement of compensation.

2. The Tribunal, after taking into consideration the oral and documentary evidence, awarded a compensation of Rs.10,000/- with interest at 7.5% per annum.

3. Heard both sides.

4. According to the learned counsel for the appellant, the accident has taken place on 07.04.2008 and she was given treatment in the Erode Trust Hospital upto 12.04.2008 and she was in-patient for test during the said period and C.T.Scan was taken and Scan Report is marked as Exhibit P11 in which, it was

stated that "No Demonstrable Intra-Cranial Haemorrhage / Skull Vault Fracture" and further stated that the medical evidence of Doctor was inadvertently not placed before the Trial Court and hence, seeks enhancement on the ground of injuries sustained on her.

5. Per contra, the learned counsel for the 3rd respondent-Insurance Company has vehemently opposed that in the absence of oral medical evidence, the said plea cannot be considered.

6. After considering the rival submissions and also taking note of the documentary evidence filed before the Trial Court namely Exhibit P4 Wound Certificate, Exhibit P9-Discharge summary issued by the Erode Trust Hospital and Exhibit P11 C.T.Scan Report which was extracted above goes to show that the Item No.V, the injuries sustained as mentioned in Exhibit P4 has been corroborated by the Exhibit P11 Scan Report that the appellant/claimant has suffered Skull Vault Fracture and taking into consideration of the gravity of the injury, a sum of Rs.30,000/- is awarded as 'consolidated compensation' for the said injury and it appears that she was not able to do her duly job for more than three years.

7. As could be seen from the evidence of P.W.1 and another Rs.10,000/- are also been granted under the head of "Nutrition" and Rs.10,000/- has been awarded under the head of "Transportation" and Rs.3,000/- has been awarded under the head of "amenities" and enhanced compensation arrived at Rs.53,000/- Hence, total compensation is hereby enhanced to Rs.53,000/- from Rs.10,000/- as awarded by the Motor Accidents Tribunal and hence, the award amount in M.C.O.P.No.189 of 2008. The amount awarded is hereby tabulated:

Heads	Award Modified by the High Court
Consolidated compensation	Rs. 30,000/-
For Nutrition	Rs. 10,000/-
For Transportation	Rs. 10,000/-
For amenities	Rs. 3,000/-
Total	Rs. 53,000/-

8. The learned counsel for the Insurance Company stated that the entire award amount has already been deposited and the Insurance Company shall deposit the balance amount within a period of eight weeks from the date of receipt of a copy of this judgment. Interest at the rate of 7.5% with regard to the enhancement of amounts shall accordingly be calculated for payment.

9. With the above enhancement in the amount awarded by the Tribunal, this Civil Miscellaneous Appeal is partly allowed. The appellant/claimant shall pay necessary Court fee, if any, on the enhanced compensation. No costs.

-s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

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To

1. The Motor Accident Claims Tribunal Cum Sub Court,
Bhavani

2. The Section officer
VR Section, High Court, Madras 104.

+1 CC to Mr.C.Kulanthaivel, Advocate sr 11796.

+1 CC to Mr.N.Vijayaraghavan, Advocate sr 13052.

सत्यमेव जयते

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CNR (CO)
SP (24/04/2019)

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