

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.801 of 2011

Venkatamma

... Appellant/Petitioner

.. Vs ..

1. S.N.Krishnappa

2. United India Insurance Company Limited,
No.24, Classic Buildings,
1st Floor, Richmond Road,
Bangalore. ... Respondents/Respondents

PRAYER:

Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 10.08.2010 made in M.C.O.P.No.1587 of 2006 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate), Krishnagiri.

For Appellant : Mr.Mukund R.Pandiyan
For R-2 : Mr.T.Ravichandran

JUDGMENT

Seeking enhancement of compensation, the appellant/claimant has filed this appeal dissatisfied with the award passed by the learned Chief Judicial Magistrate, Motor Accidents Claims Tribunal, Krishnagiri, in M.C.O.P.No.1587 of 2006, dated 10.08.2010.

2.The short facts that are essential for the disposal of this appeal is that on 31.08.2005 at about 11.00 hours, the claimant was standing on the left side of the road, in front of the Muthanallur Co-operative Civil Supply Shop for purchasing maligai things and at that time, a Tata Sumo Vehicle bearing Registration No.KA-05-D-1745 belonging to the first respondent and insured with the second respondent was driven by its driver in a rash and negligent manner, without following the rules of the road, sounding the horn, at an uncontrollable speed and suddenly hit on the claimant. As a result of which, the claimant fell down and sustained grievous injuries. Hence, she

has filed a claim petition claiming a sum of Rs.5,00,000/- as compensation.

3. The injured/claimant examined herself as P.W.1 and Doctor was examined as P.W.2. Exs.P.1 to P.7 were marked on the side of the injured/claimant. No witness was examined and no document was marked on the side of the respondents before the Tribunal.

4. Learned counsel appearing for the appellant/claimant would contend that the appellant/claimant has sustained grievous injuries viz., (1) Abrasions on left shoulder, (2) abrasions on left pelvic region and (3) fracture metacarpal bone, as per Ex.P.3-Wound Certificate and hence, prayed for enhancement of compensation.

5. Per contra, the learned counsel appearing for the second respondent/Insurance Company drawn my attention to the evidence of P.W.2-Doctor, who has not given treatment and however he has only examined the claimant.

6. After going through the oral evidence of P.W.2-Doctor and the nature of injuries as reflected in Ex.P.3-Wound Certificate issued by St. John's Medical College Hospital, Bangalore, I am inclined to grant another sum of Rs.25,000/- towards pain and sufferings and accordingly, a sum of Rs.35,000/- is awarded under the head of pain and sufferings instead of Rs.10,000/- awarded by the Tribunal. The Tribunal has awarded a sum of Rs.25,000/- towards disability, a sum of Rs.9,000/- towards loss of income and a sum of Rs.5,000/- towards transportation and extra nourishment and the same are confirmed. In all, the appellant/claimant is entitled to a sum of Rs.74,000/- as total compensation.

7. Accordingly, the award of the Tribunal stands enhanced as follows:-

Sl. No.	Head	Amount awarded by the Tribunal	Amount granted by this Court
1.	Compensation for 25% of disability (25 X 1000)	Rs. 25,000/-	Rs. 25,000/-
2.	Loss of income	Rs. 9,000/-	Rs. 9,000/-
3.	Pain and sufferings	Rs. 10,000/-	Rs. 35,000/-
4.	Transport and extra nourishment	Rs. 5,000/-	Rs. 5,000/-
	Total	Rs. 49,000/-	Rs. 74,000/-

8.In the result,

I.This Civil Miscellaneous Appeal is allowed enhancing the compensation from Rs.49,000/- to Rs.74,000/- with proportionate costs.

II.The interest granted by the Tribunal at 7.5% stands confirmed.

III.The second respondent-Insurance Company is directed to deposit the enhanced amount within a period of eight weeks from the date of receipt of a copy of this judgment, less the amount already deposited, if any.

IV.On such deposit being made, the appellant/claimant is permitted to withdraw the entire award amount with proportionate interest, less the amount already withdrawn, if any.

V. The appellant/claimant shall pay necessary Court fee, if any, on the enhanced compensation.

VI.No order as to costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Jrl

To

1. The Chief Judicial Magistrate,
The Motor Accidents Claims Tribunal,
Krishnagiri.

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

+1cc to Mr.Mukund R.Pandiyar, Advocate, S.R.No.12679
+1cc to Mr.T.Ravichandran, Advocate, S.R.No.12972

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AD(CO)
CS/26/08/2019