

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.2740 of 2013

Nagammal

...Appellant

vs.

1.M/s.Standard Agencies,
No.20, Triplicane High Road,
Triplicane, Chennai - 600 005.

2.National Insurance Co. Ltd.,
No.751, Annasalai,
Chennai - 600 002.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 07.11.2007 passed in MCOP.No.5199 of 2002 on the file of the Motor Accident Claims Tribunal / V Judge, Court of Small Causes, Chennai.

For Appellant : Mrs.M.Malar

For Respondents : Mr.D.Bhaskaran for R2
No appearance for R1

J U D G M E N T

The appellant is the claimant in MCOP.No.5199 of 2002 on the file of the Motor Accident Claims Tribunal / V Judge, Court of Small Causes, Chennai. She filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 and Rule 3 of MACT Rules seeking compensation of Rs.1,00,000/- for the injuries sustained by him in a road accident on 15.11.2002.

2. In the instant case, the claimant, a pedestrian was hit by a speeding Tata Indica Car bearing Registration No. TN 07 U 0591, as a result of which, she sustained grievous injuries all over her body and according to the claimant, the rash and negligent driving of the driver of the Tata Indica Car belonging to the first respondent was the cause of the accident and that since the said Tata India Car was insured with the National Insurance Company, the owner and the insurer are jointly and severally liable to pay compensation.

3. The owner of the Tata Indica Car remained absent before the Tribunal and therefore, he was set exparte. The second respondent / National Insurance Company contested the claim petition on all the grounds available to the insured. The learned V Judge, Court of Small Causes / Motor Accident Claims Tribunal, Chennai after analysing the evidence on record, awarded a compensation of Rs.39,000/- together with interest at the rate of 7.5% per annum to the claimant. Not being 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 Mrs.M.Malar, learned counsel appearing for the appellant/ claimant and Mr.D.Bhaskaran, learned counsel appearing for the second respondent. No appearance on behalf of the first respondent.

5. A perusal of the records shows that the claimant was admitted as an inpatient in Government Hospital, Royapettah on 15.11.2002 and discharged on 22.11.2011. It is also seen from the discharge summary (Ex.P1) that the claimant had suffered fracture and crush injury on her left foot and head injury. Dr.Saichandran (PW3) had assessed the partial permanent disability as 30% and the Tribunal has awarded a sum of Rs.30,000/-, considering the nature of injuries sustained by the claimant. In the claim petition, it is contended that the claimant was a labourer, earning a sum of Rs.50/- per day. In the absence of actual income proof, a sum of Rs.1,500/- per month is fixed as the notional income of the claimant, since the accident is of the year 2002. As the claimant had sustained fracture of left foot and also a head injury she would not have been in a position to attend to her work at least for three months and therefore, a sum of Rs.4,500/- (Rs.1,500/- x 3 months) is awarded towards "loss of income".

6. The award passed by this Court under various heads is extracted hereunder:

S. No.	Head	Amount granted by this Court
1.	Partial Permanent Disability	Rs.30,000/-
2.	Pain and Sufferings	Rs.10,000/-
3.	Transportation	Rs.3,000/-
4.	Extra Nourishment	Rs.5,000/-
5.	Attender's charges	Rs.2,000/-
6.	Loss of income	Rs.4,500/-
7.	Damage to clothes	Rs.500/-

S. No.	Head	Amount granted by this Court
	Total	Rs.55,000/-

7. Thus the quantum of compensation awarded by the Tribunal is enhanced from Rs.39,000/- to Rs.55,000/- which would carry interest at the rate of 7.5% per annum.

8. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed.
No costs.

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.39,000/- to Rs.55,000/-.

(iii) The appellant / claimant is directed to pay the court fee for the enhanced compensation amount, if any, within a period of three weeks from the date of this order and the Registry is directed to draft the decree only after receipt of the Court fee.

(iv) The second respondent / National Insurance Company is directed to deposit the enhanced compensation amount i.e., Rs.55,000/- (less the amount 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 MCOP.No.5199 of 2002 on the file of the Motor Accident Claims Tribunal / V Judge, Court of Small Causes, Chennai within a period of four weeks from the date of receipt of a copy of this order.

(v) On such deposit being made, the appellant / claimant is at liberty to withdraw the same after following due process of law.

(vi) Since the appellant / claimant has filed this appeal with a delay of 1647 days, he is not entitled to interest for the said period.

Sd/-

Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To

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

2.VR Section,
High Court of Madras.

+1cc to Mrs.M.Malar, Advocate SR.93101
+1cc to Mr.D.Bhaskaran, Advocate SR.92955

CMA.No.2740 of 2013

VSN-II (CO)
CB(11/09/2020)



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