

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.582 of 2016

K.Kamatchi

.. Appellant /Claimant

Vs.

1.C.Murugan

2.The Reliance General Insurance Company Ltd.,
23, "Heavitree" Unit No.1
IIIrd floor, Spurtank road
Chetpet, Chennai-600 031.

Now Office at
Reliance General Insurance Company limited,
No.6, Reliance House, 6th Floor,
Hattows Road,
Nungambakkam, Chennai 6.

... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 22.07.2015 made in M.C.O.P.No.1296 of 2012 on the file of Motor Accident Claims Tribunal, Small Causes Court No.V, Chennai.

For Appellant : Mr.J.Ramkumar

For R2 : Mr.S.Arunkumar

सत्यमेव जयते
J U D G M E N T

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 22.07.2015 made in M.C.O.P.No.1296 of 2012 on the file of Motor Accident Claims Tribunal, Small Causes Court No.V, Chennai.

2.The appellant is claimant in M.C.O.P.No.1296 of 2012 on the file of Motor Accident Claims Tribunal, Small Causes Court No.V, Chennai. She filed the said claim petition claiming a sum of Rs.2,00,000/- as compensation for the injuries sustained by her in the accident that took place on 17.10.2011. The Tribunal considering the pleadings, oral and documentary evidence, held

that the accident occurred only due to rash and negligent driving by the driver of the auto belonging to the 1st respondent and directed the 2nd respondent/Insurance Company being insurer of the said auto to pay a sum of Rs.31,600/- as compensation to the appellant.

3. Not being satisfied with the amounts awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

4. The learned counsel appearing for the appellant/claimant contended that the appellant has sustained abrasion on her left knee, ankle & feet and swelling on her left knee. P.W.4/Doctor in his evidence has deposed that the appellant sustained fracture of lateral malleolus ankle right, she has pain and stiffness on her right ankle, movement was restricted and assessed the disability of the appellant at 30%. She has produced Ex.P12/prescriptions and Ex.P13/certificate issued by F.O.R. Ortho hospital. The Tribunal without considering the same, has held that the injuries suffered by the appellant are simple injuries and awarded only a sum of Rs.30,000/- towards pecuniary & non-pecuniary damages. The Tribunal ought to have awarded more amount towards medical expenses, extra nourishment, loss of income, transportation, damage to clothes and pain & suffering and prayed for enhancement of compensation.

5. Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that as per Ex.P3/Accident Register copy, the appellant has sustained only simple injury. Admittedly, P.W.4 is not the doctor who treated the appellant. No surgery was done and only conservative treatment was given. The Tribunal after considering the materials available on record, has awarded just compensation. The appellant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

6. Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the 2nd respondent and perused all the materials available on record.

7. From the materials available on record, it is seen that the appellant was aged 64 years at the time of accident, she sustained abrasions all over the body and swelling and took conservative treatment. P.W.4/Doctor has assessed the disability of the appellant at 30%. The respondents have not let in any evidence to disprove the percentage of disability assessed by the doctor. Therefore, the appellant is entitled to compensation for 30% disability at the rate of Rs.3,000/- per percentage of disability. Thus, a sum of Rs.90,000/- (Rs.3,000/- X 90%) is awarded towards disability. The Tribunal has awarded a lumpsum

amount of Rs.30,000/- altogether towards loss of income, transportation, extra nourishment, damage to clothes, loss of earning and pain & suffering. Considering the nature of injuries sustained by the appellant and her age, a sum of Rs.31,600/- altogether awarded by the Tribunal is set aside and the appellant is entitled to compensation towards each heads. This Court awards a sum of Rs.10,000/- each towards loss of income, attendant charges and pain & suffering, a sum of Rs.5,000/- each towards extra nourishment and transportation and Rs.1,000/- towards damage to clothes. A sum of Rs.1,600/- awarded by the Tribunal towards medical expenses is just and reasonable and the same is 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 or reduced
1.	Disability	-	90,000	Granted
2.	loss of income, transportation, extra nourishment, damage to clothes, loss of earning and pain & suffering	30,000	-	Set aside
3.	Loss of income	-	10,000	Granted
4.	Transportation	-	5,000	Granted
5.	Extra nourishment	-	5,000	Granted
6.	Damage to clothes	-	1,000	Granted
7.	Pain and suffering	-	10,000	Granted
8.	Attendant charges	-	10,000	Granted
9.	Medical expenses	1,600	1,600	Confirmed
	Total	31,600	1,32,600	Enhanced by Rs.1,01,000/-

8.In the result, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.31,600/- is

hereby enhanced to Rs.1,32,600/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant/claimant shall 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.Vth Judge, Small Causes Court,
The Motor Accident Claims Tribunal
Chennai.

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

+lcc to Mr.J.Ramkumar, Advocate, S.R.No.104367

C.M.A.No.582 of 2016

SV(CO)
GN(25/06/2020)

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