

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2069 of 2019

Sampoornam

.. Appellant/Petitioner

Vs.

Saraswathi (died)

1.United India Insurance Company Limited,
No.146-N, Kumar Complex,
Tiruchengode.

2.Velliyangiri

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 12.07.2018 made in M.C.O.P.No.52 of 2012 on the file of the Motor Accident Claims Tribunal, Sub Court, Tiruchengode.

For Appellant : Mr.T.S.Arthanareeswaran
For R1 : Mr.T.Ravichandran

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 12.07.2018 made in M.C.O.P.No.52 of 2012 on the file of the Motor Accident Claims Tribunal, Sub Court, Tiruchengode.

2.The appellant is the claimant in M.C.O.P.No.52 of 2012 on the file of the Motor Accident Claims Tribunal, Sub Court, Tiruchengode. She filed the above said claim petition, claiming a sum of Rs.25,00,000/- as compensation for the injuries sustained by her in the accident that took place on 18.02.2012.

3.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 bus belonging to the second respondent and directed the respondents 1 and 2 to pay a sum of Rs.5,37,415/- as compensation to the appellant.

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

5. The learned counsel appearing for the appellant contended that the appellant was a business woman having own business in the name and style of "M/s.B.S.R.Traders, Sri Balaji Enterprises, Tiruchengode" and was earning a sum of Rs.25,000/- per month. The Tribunal has not granted any amount towards loss of income. The appellant sustained grievous injuries and multiple fractures and underwent surgery. P.W.2/Doctor assessed the percentage of disability suffered by the appellant as 15%. The Tribunal ought to have adopted multiplier method for granting compensation. The Tribunal has not granted any amount towards loss of amenities, loss of cloth and future medical expenses. The amounts granted by the Tribunal under different heads are meager and prayed for enhancement for compensation.

6. Per contra, Mr.T.Ravichandran, learned counsel appearing for the first respondent-Insurance Company contended that the appellant has not let in any material evidence to prove that she was a business woman and was earning a sum of Rs.25,000/- per month. In the absence of any material evidence, the Tribunal rightly has not granted any amount towards loss of income. The Tribunal has awarded excessive amount towards 15% disability. Hence, the appellant is not entitled to any enhancement. The amounts granted by the Tribunal under different heads are not meager and prayed for dismissal of the appeal.

7. I have heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the first respondent-Insurance Company and perused the entire materials on record.

8. The contention of the learned counsel for the appellant is that the appellant was a business woman having own business in the name and style "M/s.B.S.R.Traders, Sri Balaji Enterprises, Tiruchengode" and was earning a sum of Rs.25,000/- per month. The appellant has not produced any material evidence to prove that she was earning a sum of Rs.25,000/- per month. The accident occurred in the year 2012. A sum of Rs.7,500/- is fixed by this Court as monthly income of the appellant. Due to the injuries and disability suffered, the appellant would not have attended her work atleast for six months. The appellant is entitled to a sum of Rs.45,000/- [Rs.7,500/- X 6] towards loss of income. The appellant took treatment as in-patient from 18.02.2012 to 29.02.2012 and underwent surgery. The Tribunal has not granted any amount towards loss of amenities. A sum of Rs.25,000/- is granted towards loss of amenities. The Tribunal has not granted any amount towards loss of cloth and future

medical expenses. A sum of Rs.2000/- and Rs.20,000/- are granted towards loss of cloth and future medical expenses respectively. The contention of the learned counsel for the appellant that the Tribunal ought to have adopted multiplier method for granting compensation is without merits. The amounts awarded by the Tribunal under other heads are 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
1.	Medical expenses	3,75,415/-	3,75,415/-	confirmed
2.	Disability	45,000/-	45,000/-	confirmed
3.	Transportation	49,000/-	49,000/-	confirmed
4.	Pain and suffering & mental agony	25,000/-	25,000/-	confirmed
5.	Extra nourishment	15,000/-	15,000/-	confirmed
6.	Attendant charges	25,000/-	25,000/-	confirmed
7.	Loss of amenities	-	25,000/-	granted
8.	Loss of cloth	-	2,000/-	granted
9.	Future medical expenses	-	20,000/-	granted
10.	Loss of income	-	45,000/-	granted
	Total	Rs.5,34,415/- Tribunal arrived at Rs.5,37,415/-	Rs.6,26,415/-	enhanced by Rs.89,000/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.5,37,415/- is hereby enhanced to Rs.6,26,415/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant is directed to pay the Court fee, if any on the enhanced amount of compensation. The respondents 1 and 2 are directed to deposit the enhanced award amount now determined by this Court together 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 is permitted to withdraw the enhanced award amount now determined by this Court,

along with interest and costs, less the amount if any, already withdrawn by filing necessary applications before the Tribunal. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Subordinate Judge,
Motor Accident Claims Tribunal,
Tiruchengode.

2.The Section Officer,
VR Section,
High Court,
Madras.

+2 ccs to Mr.T.S.Arthanareeswaran Advocate sr34283

+1 cc to Mr.T.Ravichandran Advocate sr35184

C.M.A.No.2069 of 2019

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