

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.161 of 2018

R.Meena

... Appellant /Petitioner

Vs.

1.N.Easudass

2.Bharti AXA General Insurance Co. Ltd.,
II Floor, Metro Plaza, No.162, Anna Salai,
Chennai - 600 002. ... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 13.11.2017 made in M.C.O.P.No.7330 of 2013 on the file of the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai.

For Appellant : Mr.K.Varadha Kamaraj

For Respondents : No appearance

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant/claimant seeking enhancement of compensation granted by the Tribunal in the award dated 13.11.2017 made in M.C.O.P.No.7330 of 2013 on the file of the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai.

2.The appellant is claimant in M.C.O.P.No.7330 of 2013 on the file of the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai. She filed the said claim petition claiming a sum of Rs.6,00,000/- as compensation for the injuries sustained by her in the accident that took place on 01.09.2013. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the Tata Ace van belonging to the 1st respondent and directed the 2nd respondent/Insurance

Company to pay a sum of Rs.1,58,300/- as compensation to the appellant. Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

3.The learned counsel appearing for the appellant/claimant contended that the appellant sustained multiple injuries all over her body. P.W.2/Doctor, who examined the appellant, has certified her disability at 40%. The Tribunal without any reason, has reduced the same to 25% disability and awarded meagre sum towards compensation. The amounts awarded by the Tribunal towards pain & suffering, transportation, extra nourishment and loss of amenities are meagre. The Tribunal has not awarded any amount towards loss of earning capacity and prayed for enhancement of compensation.

4.Though notice has been served on the respondents and their names are printed in the cause list, there is no representation on behalf of them either in person or through counsel.

5.Heard the learned counsel appearing for the appellant and perused all the materials available on record.

6.From the materials available on record, it is seen that the Tribunal has reduced the percentage of disability on the ground that P.W.2/Doctor has not filed any work sheet and guidelines. The reason given by the Tribunal for reducing the percentage of disability is not correct. The appellant is entitled for 40% disability. This Court awards a sum of Rs.1,20,000/- (Rs.3,000/- X 40%) towards disability by awarding Rs.3,000/- per percentage. According to the appellant, she has taken treatment in the hospital as in-patient from 02.09.2013 to 04.10.2013. Considering the nature of injuries and period of treatment taken by the appellant, a sum of Rs.6,800/- and Rs.10,000/- awarded by the Tribunal towards attendant charges and extra nourishment are meagre and the same are enhanced to Rs.20,000/- each. The amounts awarded by the Tribunal under other heads are just and reasonable and the same are 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
1.	Disability	75,000	1,20,000	Enhanced
2.	Pain and suffering	25,000	25,000	Confirmed

3.	Extra nourishment	10,000	20,000	Enhanced
4.	Transportation	10,000	10,000	Confirmed
5.	Damage to clothes	1,000	1,000	Confirmed
6.	Attendant charges	6,800	20,000	Enhanced
7.	Medical expenses	5,000	5,000	Confirmed
8.	Future medical expenses	3,000	3,000	Confirmed
9.	Loss of income	19,500	19,500	Confirmed
10.	Loss of amenities	3,000	3,000	Confirmed
	Total	Rs.1,58,300/-	Rs.2,26,500/-	Enhanced by Rs.68,200/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,58,300/- is hereby enhanced to Rs.2,26,500/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant/claimant is directed to 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.

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Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

kj

To

The IV Judge,
Small Causes Court,
Motor Accidents Claims Tribunal,
Chennai.

Copy to

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

+lcc to Mr.K.Varadhakamaraj, Advocate Sr.20411

C.M.A.No.161 of 2018

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