

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.235 of 2018

Palaniammal

.. Appellant

Vs.

1.Murugesan

(Notice to R1 may be dispensed
with as he was set ex-parte before the Tribunal)

2.United India Insurance Co., Ltd.,
Muthaiah Complex, 2nd Floor,
1170, Mettur Road, Erode.

3.R.Kondappan

(Notice to R3 may be dispensed
with as he was set ex-parte before the Tribunal)

4.United India Insurance Co., Ltd.,
Shanmuga Complex, 1-15, 24-H, 1st Floor,
New Edappadi Road, Sankari.

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 23.08.2017 made in M.C.O.P.No.561 of 2011 on the file of the Motor Accident Claims Tribunal, Sub Court, Sankari.

For Appellant : Mr.T.S.Arthanareeswaran
R1 and R3 : Exparte
For R2 and R4 : No appearance

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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 23.08.2017 made in M.C.O.P.No.561 of 2011 on the file of the Motor Accident Claims Tribunal, Sub Court, Sankari.

2.The appellant is claimant in M.C.O.P.No.561 of 2011 on the file of the Motor Accident Claims Tribunal, Sub Court, Sankari. She filed the said claim petition claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by her in the accident that took place on 19.06.2011. 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 Maruthi 800 car belonging to the 3rd respondent and directed the 3rd respondent to pay a sum of Rs.5,75,000/- 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 Tribunal failed to consider the evidence of P.W.2/Doctor, who has deposed about the nature of injuries sustained by the appellant and erred in fixing disability and awarded meagre sum towards disability. The Tribunal ought to have adopted multiplier method while awarding compensation towards disability. The amounts awarded by the Tribunal towards transportation, attendant charges, pain & suffering are meagre. The Tribunal has not awarded any amounts towards loss of amenities and extra nourishment and prayed for enhancement of compensation.

4.Though notice served on the 2nd and 4th respondents/Insurance Companies 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 appellant has contended that she has taken treatment in the hospital as in-patient from 25.06.2011 to 16.07.2011 and to prove the same, Ex.P6/discharge summary was marked. P.W.2/Doctor after examining the appellant, has certified her disability at 85%. When P.W.2/Doctor was cross-examined by the respondents, she admitted that she has not given treatment to the appellant, but the disability suffered by the appellant is permanent. She further deposed that the appellant could not do the work as she was doing earlier due to the injuries. The Tribunal considering the evidence of P.W.2/Doctor, has fixed 79% disability and awarded a sum of Rs.2,37,000/- (Rs.3,000/- X 79%) towards disability by awarding Rs.3,000/- per percentage. The appellant has not proved that she suffered functional disability and hence, the percentage method adopted by the Tribunal for awarding compensation towards disability is proper. In addition to that, the Tribunal has awarded a sum of Rs.1,20,000/- under

the head simple injuries, which is excessive. Considering the nature of injuries and period of treatment taken by the appellant, the amounts awarded by the Tribunal under different heads are not meagre and the same are hereby confirmed. The appellant is not entitled for any enhancement and the award of the Tribunal is hereby confirmed.

7. In the result, this Civil Miscellaneous Appeal is dismissed and the sum of Rs.5,75,000/- awarded by the Tribunal as compensation to the appellant/claimant, along with interest and costs is confirmed. The 3rd respondent/owner of the vehicle is directed to deposit the award amount 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 to the credit of M.C.O.P.No.561 of 2011. On such deposit, the appellant/claimant is permitted to withdraw the entire amount awarded by the Tribunal along with interest and costs, after adjusting the amount, if any already withdrawn. No costs.

s/d-

Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

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To

1. The Subordinate Judge,
Motor Accidents Claims Tribunal,
Sankari.

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

+1 CC to Mr. Ravichandran, Advocate sr 21339
+2 CCS to Mr. Paraneedharan, Advocate sr 20605.

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C.M.A.No.235 of 2018

MG (CO)
SP (29/11/2019)