IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.355 of 2018

Mallika Begum .. Appellant/Petitioner

Vs.

1.R.B.Pravin
(R1 remained exparte before the Tribunal, hence his presence may be dispensed with)

2.United India Insurance Co. Ltd.,
No.134, Greams Road,
IV Floor, Anna Salai,
Chennai - 600 006. .. Respondents/respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 28.01.2016 made in M.C.O.P.No.3510 of 2012 on the file of Motor Accident Claims Tribunal, Special Sub Court No.I, Chennai.

For Appellant : Ms.A.Subadra
for Ms.M.Malar

For R2 : Mr.G.Arumugaraja
for Ms.R.Vijayakamala

WEB COPY

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 28.01.2016 made in M.C.O.P.No.3510 of 2012 on the file of Motor Accident Claims Tribunal, Special Sub Court No.I, Chennai.

2.By consent of both the learned counsel appearing for the appellant and 2nd respondent-Insurance Company, the appeal is

https://hcservices.ecourts.gov.in/hcservices/

taken up for final disposal at the stage of admission itself.

3.The appellant is claimant in M.C.O.P.No.3510 of 2012 on the file of Motor Accident Claims Tribunal, Special Sub Court No.I, 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 16.05.2012. 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 car belonging to the 1st respondent and directed the 2nd respondent-Insurance Company to pay a sum of Rs.2,12,133/- 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.

4.The learned counsel appearing for the appellant contended that the Tribunal failed to consider the injuries sustained by the appellant and awarded a meagre sum of Rs.2,12,133/- as compensation. The appellant was aged 49 years at the time of the accident. The appellant was doing textile business in the name of Vinayaka Enterprises and was earning a sum of Rs.9,000/- per month. The Tribunal has erroneously fixed a meagre sum of Rs.5,500/- per month as monthly income of the appellant. The appellant in order to prove the nature of injuries and disability suffered by her, has examined P.W.2-Doctor, who assessed 55% disability. The Tribunal has awarded meagre amounts under different heads and prayed for enhancement of compensation.

5.Per contra, the learned counsel appearing for the 2nd respondent-Insurance Company contended that the appellant has not proved her avocation and income and the disability assessed by the Doctor is excessive. The Tribunal considering the nature of injuries sustained by the appellant and evidence of P.W.2-Doctor, reduced the percentage of disability and awarded compensation. The amounts granted by the Tribunal are not meagre and prayed for dismissal of the appeal.

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

WEB COPY

7.From the materials available on record, it is seen that the appellant has contended that she was doing textile business in the name of Vinayaka Enterprises and was earning a sum of Rs.9,000/- per month. The Tribunal has fixed a sum of Rs.5,500/- per month as monthly income of the appellant. The accident is of the year 2012. The monthly income fixed by the Tribunal is meagre. A sum of Rs.7,500/- per month is fixed as monthly income of the appellant. The appellant has taken treatment in the

https://hcservices.ecourts.gov.in/hcservices/

hospital as in-patient from 16.05.2012 to 21.05.2012. The amounts granted by the Tribunal towards extra nourishment, attendant charges and pain & suffering are meagre and hence, the same are enhanced to Rs.10,000/-, Rs.10,000/- and Rs.20,000/- respectively. The amount granted by the Tribunal towards loss of income during and after treatment period is meagre and hence, the same is enhanced to Rs.45,000/- (Rs.7,500 X 6). Considering the fact that the appellant is a lady, the amounts granted by the Tribunal towards loss of future amenities and disfigurement are meagre and hence, the same is enhanced to Rs.50,000/-. The amounts awarded by the Tribunal under all 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.	Medical expenses	8,133	8,133	Confirmed
2.	Loss of earning during and after treatment	11,000	45,000	Enhanced
3.	Expenses towards conveyance	3,000	3,000	Confirmed
4.	Extra nourishment	6,000	10,000	Enhanced
5.	Attender charges	2,000	10,000	Enhanced
6.	Damages to articles	2,000	2,000	Confirmed
7.	Compensation for disability	1,50,000	1,50,000	Confirmed
8.	Pain and sufferings	10,000	20,000	Enhanced

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

9.	Compensation for loss of future amenities and disfigurement	20,000	50,000	Enhanced
	Total	Rs.2,12,133/-	Rs.2,98,133/-	Enhanced by Rs.86,000/-

8.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,12,133/- is hereby enhanced to Rs.2,98,133/- 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.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

mtl
To

1.The Special Subordinate Judge No.I,
Motor Accidents Claims Tribunal,
Chennai.

+1 cc to M/s.R.Vijayakamala Advocate sr22029
+1 cc to M/s.M.Malar Advocate sr22028

C.M.A.No.355 of 2018

sai(co)
aa18/09/2019

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/