

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.07.2019

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.620 of 2014

Parimala

... Appellant/Petitioner

Vs.

1.T.Natarajan

2.Reliance General Insurance Co., Ltd.,
Reliance House, VI Floor,
No.6, Haddows Road,
Chennai - 06 ... Respondents/Respondents

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988, to enhance the amount awarded in M.C.O.P.No.1422 of 2010 dated 19.08.2013 on the file of Motor Accident Claims Tribunal (VI Small Causes Court), Chennai.

For Appellant : Mr.K.Varadha Kamaraj

Respondents : Mr.S.Arunkumar for R2
R1 - Exparte

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 19.08.2013 passed in M.A.C.T.O.P.No.1422 of 2010 on the file of the Motor Accident Claims Tribunal (VI Small Causes Court), Chennai.

2. It is the case of the appellant that on 18.03.2010 at about 13.00 hrs, when she was riding her motorcycle bearing Regn.No.TN-01-AK-6536 between Raju Naicken Street and Solai Street Junction, at that time, a car bearing Regn.No.TN-69-S-2877 which was driven by its owner-cum-driver/1st respondent in a rash and negligent manner had hit behind the vehicle of the appellant, thereby the appellant had sustained grievous injuries, for which the respondents are jointly and severally liable to pay the compensation. Since the 2nd respondent is the insurer of the car and 1st respondent is the driver cum owner of the car, the appellant herein, has filed a Claim Petition before

the Motor Accident Claims Tribunal (VI Court of Small Causes], Chennai, seeking compensation for a sum of Rs.1,00,000/- under various heads.

3. Denying the allegations of the appellant, the 2nd respondent /Insurance company filed a counter affidavit before the Tribunal relating to her age, avocations and income. He would further contend that it is only appellant had travelled in a rash and negligent manner. The alleged injury sustained by the appellant is only simple in nature and that the claim under various heads are highly excessive and therefore, they are not liable to pay any compensation to the appellant. Hence, sought for dismissal of the petition with costs.

4. During the Trial before the Tribunal, on the side of the appellant, she was examined herself as P.W.1 and one Dr.K.J.Mathiazhagan, was examined as P.W.2 and filed certain documents, they are as follows:-

- Ex.P.1 : Copy of the F.I.R. Report
- Ex.P.2 : Copy of the Accident Register
- Ex.P.3 : Medical record issued by M.N.Orthopaedic Hospital, Chennai
- Ex.P.4 : Prescriptions
- Ex.P.5 : X-Ray
- Ex.P.6 : Medical Bills
- Ex.P.7 : Driving License of the Appellant
- Ex.P.8 : Salary Certificate
- Ex.P.9 : Disability Certificate

5. On the side of the respondents, no one was examined and no documents were marked.

6. The Tribunal, considering the pleadings, oral and documentary evidence, allowed the petition in favour of the appellant and awarded Rs.32,700/- as compensation, to the appellant. Aggrieved by the award, the appellant /Claimant has filed this appeal before this Court.

7. On a perusal of the award dated 19.08.2013 passed by the Motor Accident Claims Tribunal (VI Court of Small Cause), Chennai, it is seen that the accident has not been disputed. Further, upon perusal of the Accident Register, Ex.P.2, it is clear that the appellant had not sustained any fracture, as alleged by her; Also, it is found that there was only a hairline crack and BK Slab has been applied and in her evidence, she herself has admitted that it is only simple injuries. It is also evident from the medical records that the injuries

sustained are simple in nature and that there is no grievous injuries.

8. As far as quantum of compensation is concerned, Tribunal taking shelter of Ex.P.3, medical records, has awarded a compensation of Rs.25,000/- towards disability, however, rejected the disability assessed by the Doctor, taking note of Ex.P.2, Accident Register, which describes the nature of injury as 'Simple'. Further, a sum of Rs.7,700/- was awarded for Medical expenses and in total, a sum of Rs.32,700/- was awarded.

8. In view of the above, this Court does not find any error in the award dated 19.08.2013 passed by the Tribunal in M.C.O.P.No.1422 of 2010. Hence, this Court is not inclined to interfere with the same.

9. In the result, the Civil Miscellaneous Appeal is dismissed and a sum of Rs.32,700/- awarded by the Tribunal as compensation to the appellant / claimant is hereby confirmed. The 2nd respondent / Insurance company is directed to deposit the entire amount awarded by the Tribunal 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 being made, the appellant is permitted to withdraw the amount determined by the Tribunal along with interest and costs, less the amount, if any, already withdrawn, by filing an appropriate application before the Court concerned. No costs.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

ssd

To

The Motor Accident Claims Tribunal (VI Small Causes Court),
Chennai.

+1cc to Mr.K.Varadha Kamaraj, Advocate SR.64481
+1cc to Mr.S.Arunkumar, Advocate SR.64354

C.M.A.No.620 of 2014

NRJK (CO)
CB (06/12/2019)