

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1639 of 2017

Anitha ... Appellant/Petitioner

Vs

1.Uma Industries

Having Office at No.2,
Veera Mamunivar Street
Ambal Nagar, Ekkaduthangal
Chennai-97.

(R1 remained ex-parte before the Tribunal and
hence his presence may be dispensed with).

2.The New India Assurance Company Ltd.,

Having Office at No.45,
5th Floor, Moore Street,
Chennai-600 001.

... Respondents/Respondents

Appeal under Section 173 of the Motor Vehicles Act against
the judgment and decree dated 25.01.2016 made in MACTOP No.539
of 2007 on the file of the Motor Accidents Claims Tribunal and
IV Additional District Judge, Ponneri.

For Appellant : Ms.M.Malar

For Respondents : Mr.K.Thirunavukkarasu for R2

JUDGMENT

This appeal is preferred by the appellant/claimant against
the award of a sum of Rs.1,74,000/- towards compensation due to
the injuries sustained by her in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 15.02.2007 at about 13.00 hours,
the appellant was riding the Scooty two-wheeler bearing
Reg.No.TN-09-AE-0736 on Munusamy Salai at K.K.Nagar, Chennai. At
that time, a van bearing Reg.No.TN-09-AF-8572 belonging to the
first respondent and insured with the second respondent
Insurance Company, came from behind in a rash and negligent
manner and dashed against the appellant. Due to the said impact,
the appellant sustained grievous injuries. The appellant /

claimant filed a claim petition before the Tribunal, claiming a sum of Rs.3,50,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.1,74,000/- with interest at the rate of 7.5% per annum from the date of petition.

3.Challenging the same, the appellant-claimant has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant /claimant has submitted that the Tribunal has failed to properly consider the evidence of P.Ws.1 and 2 and the documents marked through them, thus awarding a meagre compensation of Rs.1,74,000/- against the claim of Rs.3,50,000/-. It is also submitted that even though the Doctor fixed the disability of the claimant at 45%, the Tribunal has reduced the same to 35%, without any basis. Stating so, the learned counsel prayed for enhancement of compensation.

5.The learned counsel for the second respondent / Insurance Company has submitted that the Tribunal has rightly considered the materials and evidence available on record and has awarded the just, fair and reasonable compensation and hence the same does not require any interference in the hands of this Court.

6.Heard the learned counsel for the appellant and the learned counsel for the second respondent and perused the materials and evidence available on record carefully and meticulously.

7.The details of the compensation awarded by the Tribunal are as follows:

HEADS	AMOUNT (Rs.)
Transport to hospital	10,000/-
Extra nourishment	10,000/-
Pain and suffering	10,000/-
Disability at 35%	70,000/-
Medical expenses	64,000/-
Loss of income	10,000/-

TOTAL...	1,74,000/-
	=====

8.On a perusal of the materials and evidence available on record, this Court is of the view that the appellant would have required the assistance of an attender to carry out her work for a certain period, due to the injuries suffered by her in the accident and it would be appropriate to award a sum of

Rs.6,000/- towards attender charges. Further it is seen that even though P.W.2-Doctor fixed the disability of the appellant / claimant at 45%, the Tribunal has reduced the same to 35% without stating any reasons. Considering the nature of injuries suffered by the appellant, it would be appropriate to retain the disability fixed by the Doctor at 45% and accordingly, the amount awarded towards disability stands modified to Rs.90,000/- at the rate of Rs.2,000/- per percentage of disability, fixed by the Tribunal. The amounts awarded by the Tribunal towards other heads are confirmed. The details of the modified compensation are as under:

HEADS	AMOUNT (Rs.)
Transport to hospital	10,000/-
Extra nourishment	10,000/-
Pain and suffering	10,000/-
Disability at 45%	90,000/-
Medical expenses	64,000/-
Loss of income	10,000/-
Attender charges	6,000/-

TOTAL...	2,00,000/-
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9.Thus, the appellant / claimant is entitled to the modified compensation of Rs.2,00,000/-. It is made clear that only for the compensation of Rs.1,74,000/- awarded by the Tribunal, the interest rate of 7.5% per annum shall be calculated from the date of claim petition. For the enhanced amount of Rs.26,000/-, the interest rate of 7.5% shall be calculated from the date of filing of this appeal.

10.The Civil Miscellaneous Appeal is allowed to the extent indicated above. No costs.

11.The second respondent Insurance Company is directed to deposit the modified compensation as ordered above, less the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant / claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-

Assistant Registrar
(Arbitration)

//True Copy//

Sub Assistant Registrar

KM

To

1.The Motor Accidents Claims Tribunal
and IV Additional District Judge, Ponneri.

Copy To

The Section Officer,
VR Section,
Madras High Court.

+1cc to Mr.M.Malar, Advocate, S.R.No. 84077

+1cc to Mr.K.Thirunavukkarasu, Advocate, S.R.No. 82951

C.M.A.No.1639 of 2017

PPA (CO)
GN (25/02/2020)