



WEB COPY

1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.07.2019

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD) .No.1308 of 2016
and
C.M.P. (MD) .Nos.11363 of 2017

Radha

... Appellant/
Claimant

Vs.

1.Seethai

2.United India Insurance Company Ltd.,
through its Branch Manager,
Xavier Building,
II Floor, P.W.D. Road,
P.B. No.50, Nagercoil.

3.Vasanth

4.Iffco-Tokio General Insurance Co. Ltd.,
through its Branch Manager,
Tulsi Chambers, III Floor, No.195,
T.V.Swami Road (West),
R.S.Puram,
Coimbatore.

... Respondents/
Respondents

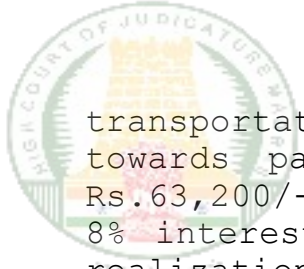
PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award, dated 09.01.2012, passed in M.C.O.P.No.801 of 2011 by the Motor Accident Claims Tribunal / Fast Track Court No.II, Tirunelveli.

For appellant	:	Mr.T.Selvakumaran
For respondents 1 & 3	:	No appearance
For 2 nd respondent	:	Mr.A.Ilango
For 4 th respondent	:	Mr.B.Prasanna Vinoth

JUDGMENT

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

It is a case of injury. The manner of the accident is not in dispute. The Tribunal has awarded a sum of Rs.6,000/- towards



transportation; Rs.2,000/- towards extra nourishment, Rs.25,000/- towards pain and sufferings; Rs.3 lakhs towards disability and Rs.63,200/- towards medical expenses, totalling Rs.3,96,200/- with 8% interest per annum from the date of petition till the date of realization. The Tribunal has directed the second respondent / Insurance Company to deposit the entire compensation amount and dismissed the claim petition in respect of the respondents 3 and 4. The appellant / claimant has filed this appeal seeking to enhance the compensation.

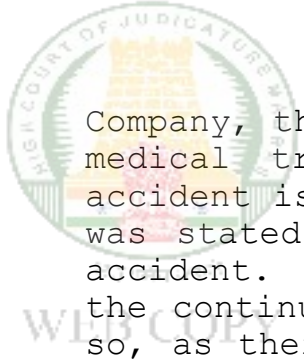
2. The learned counsel appearing for the appellant / claimant would submit that the claimant was housewife and due to accident, the claimant's right leg movement completely restricted and left leg shortened by 5 c.m. and therefore, the claimant could not do work as she was doing earlier. While so, the Tribunal has awarded only Rs.3 lakhs towards disability and loss of earning capacity, which is on the lower side and therefore, the same may be enhanced. He would further submit that after the award, the claimant has spent nearly about Rs.1,70,000/- for future medical expenses and in order to prove the same, the claimant has filed C.M.P.(MD).No.11363 of 2017 seeking to receive the medical bills as additional documents. This Court may receive the said documents and enhance the compensation.

3. The learned counsel appearing for the contesting second respondent / Insurance Company would submit that the claimant was only housewife and considering the nature of the injury sustained by the claimant and percentage of disability, the Tribunal ought to have awarded Rs.3000/- per percentage of disability, but the Court below has erroneously adopted multiplier method and awarded Rs.3 lakhs as compensation towards disability. He would further submit that the accident was held in the year 2011, but the claimant has produced the medical bills relating to the years 2016 and 2017 and therefore, the same may not be accepted. Thus, he prayed to dismiss this appeal.

4. Heard the learned counsel appearing for the parties and perused the records carefully.

5. A perusal of the record shows that due to accident, the claimant has sustained multiple injuries and fracture on the right thigh and his left leg shortened by 5 c.m. and thus, she could not do the work as she was doing earlier. The doctor has assessed the disability as 58% partial permanent disability and fixed Rs.3,000/- as loss of income for engaging a servant. Though the Tribunal has stated that Rs.3 lakhs is awarded towards disability and loss of earning capacity by applying Schedule II formula, it is not mentioned as to how the said amount has been arrived at. However, this Court is of the view that Rs.3 lakhs awarded by the Tribunal cannot be stated to be lesser amount.

6. So far as C.M.P.(MD).No.11363 of 2017 is concerned, it is seen that as rightly stated by the second respondent/Insurance



Company, the claimant has produced the medical bills relating to the medical treatments given during the years 2016 and 2017. The accident is of the year 2011. Nearly after five years, the claimant was stated to be again treated for the injuries sustained in the accident. Though it is stated to be the medical bills relating to the continuous treatment, this Court is of the view that it is not so, as there is a gap of five years. Therefore, the medical bills produced by the claimant cannot be accepted.

7. So far as the award passed by the Tribunal under the other heads are concerned, this Court is of the view that they are reasonable and therefore, this Court is not inclined to interfere with the same. Viewing from any angle, this appeal is liable to be dismissed.

8. In view of the above, this Civil Miscellaneous Appeal is dismissed. The second respondent / Insurance company is directed to deposit the entire award amount, less the amount already deposited, with accrued interest and costs, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the same by filing an application before the Tribunal.

9. This Civil Miscellaneous Appeal is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

To
The Additional District Judge cum FTC No.II,
Motor Accident Claims Tribunal, Tirunelveli.

Copy to:
The Record Keeper, (2 Copies)
V.R.Section, Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.T.SELVAKUMARAN, Advocate (SR-72637[F] dt.02/07/2019)
+1 CC to M/s.A.ILANGO, Advocate (SR-72784[F] dated 02/07/2019)
+1 CC to M/s.B.Prasanna Vinoth, Advocate SR.72702

C.M.A (MD) .No.1308 of 2016
01.07.2019