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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2020

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.2423 of 2008

(Through Video Conferencing)

M.Prema

... Appellant/Petitioner

Vs.

1.Habeeb Nachiyar

2.The United India Ins. Co. Ltd.,
Motor III Party Claims Office,
No.38, Anna Salai,
Chennai - 600 002.

...Respondents/ Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 28.11.2006 made in M.C.O.P.No.155 of 2005, on the file of the Motor Accident Claims Tribunal, Additional Dist. & Sessions Judge, Fast Track Court III, Poonamallee.

For Appellant : M/s.Y.Jayanthi

For 2nd Respondent : Mr.D.Bhaskaran

J U D G E M E N T

The claimant is the appellant in this Civil Miscellaneous Appeal. This appeal has been filed by the appellant/claimant against the impugned Judgment and Decree dated 28.11.2006 passed by the Motor Accident Claims Tribunal, Additional District & Sessions Court (Fast Track Court III), Poonamallee in M.C.O.P.No.155 of 2005.

2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.10,000/- as compensation together with interest at 7.5% p.a. from the date of filing of the claim petition till the date of deposit to the appellant/claimant for the simple injuries suffered by her. Since the appellant/claimant aggrieved by the said compensation, she has filed this appeal.

3. It is the case of the appellant that the Tribunal erred in awarding a low compensation of Rs.10,000/- and no amount was awarded towards pain and suffering and towards loss



of earning and towards other conventional heads.

4. Heard the learned counsel for the appellant and the learned counsel for the 2nd respondent Insurance Company. I have perused the evidence on record and the impugned Judgment and Decree passed by the Tribunal.

5. The nature of injury suffered by the appellant/claimant indicates that the appellant suffered only simple injury and there was no fracture to the bone. Therefore, there is no permanent disability. The appellant/claimant has also not produced any physician before the Tribunal to justify the injury to claim a compensation of Rs.2,00,000/-.

6. In fact, it is noticed that before the Tribunal, the compensation was quantified as Rs.6,40,000/- but was restricted to Rs.2,00,000/-. Be that as it may, the evidence adduced during the cross examination of the appellant makes it clear that there was no fracture to the bone and there was only simple lacerated wound which the appellant herself admitted to be a simple injury.

7. Considering the fact that the injury suffered by he appellant was lesser injury on her left leg, I am inclined to partially enhance the compensation awarded by the Tribunal by another sum of Rs.15,000/-, i.e. a sum of Rs.5,000/- towards pain and suffering and a sum of Rs.10,000/- towards loss of earning. The other conventional heads under which the appellant seeks compensation cannot be awarded. There are no grounds to substantiate the same. Therefore, the total amount of compensation payable to the appellant/claimant is enhanced from Rs.10,000/ to Rs.25,000/.

8. Therefore, the 2nd respondent Insurance Company is directed to deposit a sum of Rs.25,000/- together with interest at 7.5% p.a. from the date of filing of the claim petition till the date of deposit and cost, less any amount already deposited, within a period of six weeks from the date of receipt of a copy of this Judgment before the Tribunal.

9. On such deposit, the appellant/claimant is permitted to withdraw the same together with interest and cost, less any amount already withdrawn, by filing suitable application before the Tribunal.

10. Accordingly, this Civil Miscellaneous Appeal is partly allowed. No cost.

Sd/-

Assistant Registrar (CS-I)

//True copy//

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

Sub Assistant Registrar



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To:-

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1. Motor Accident Claims Tribunal,
Additional Dist. & Sessions Judge,
Fast Track Court III, Poonamallee.
2. The Section Officer,
VR Section, High Court, Madras.

C.M.A.No.2423 of 2008

NMI (CO)
GMY (19/08/2021)