



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2020

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.M.A.No.1834 of 2015

S.Dhanalakshmi

...Appellant/Petitioner

/versus/

1.A.Pransishraja

2.M/s.Sri Ram General Insurance Company Ltd.,
No.E-8, EPIP, RIICO Industrial Area, Sitapura,
Jaipur, Rajasthan State-302 022. ...Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the Judgment and Decree dated 01.12.2014 made in M.C.O.P.No.75 of 2012 on the file of MACT/Sub Court, Namakkal.

For Appellant : Mr.Lokesh
for Mr.MA.P.Thangavel

For Respondents R1: Ex-parte
: Mr.S.Dhakshnamoorthy for R2

J U D G M E N T

(The case has been heard through video conference)

Heard the learned counsel for the appellant and the learned counsel for the 2nd respondent/Insurance Company.

2. This appeal is preferred by the injured claimant seeking enhancement of compensation.

3. On 20.02.2012, when the appellant along with Karthika travelling in a TVS Scooty bearing registration No.TN 49 D 2506 driven by Karthika, a Hero Honda Splender bike bearing registration No.TN 34 J 1153 driven by the 1st respondent rash and negligently hit the TVS Scooty, in which, the rider of the two wheeler Karthika and her mother Dhanalakshmi the appellant herein sustained fracture injury. A claim petition was filed before the Tribunal by Karthika in M.C.O.P.No.71 of 2012 and by Dhanalakshmi in M.C.O.P.No.75 of 2012 on the file of the Motor Accidents Claims Tribunal, Namakkal. Under the common award, the



Tribunal has granted Rs.1,72,352/- for the claimant Dhanalakshmi.

4. Being unsatisfied with the quantum, the present appeal C.M.A.No.1834 of 2015 is filed.

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5. In the said appeal, the learned counsel for the appellant would submit that the disability assessed by the doctor has not been taken into consideration. The Tribunal has awarded Rs.2,000/- per percentage of disability and has reduced percentage of disability to 40% and further under other non conventional heads compensation award is very less and no compensation has been awarded for the claimant towards loss of income during the period of treatment. The learned counsel would contend that the accident occurred on 20.02.2012 and at that time, the compensation for disability at Rs.3,000/- per percentage.

6. The learned counsel for the respondent/Insurance Company would state that the Tribunal has rightly assessed the disability at 40% since the discharge summary indicates that the fracture was stabilized proximal and distal locking was done, wound closed in layers. Further he contend that there is no evidence to show that the loss of earning during the treatment period. However the compensation for disability shall be fixed at Rs.3,000/- per percentage.

7. Taking into consideration the rival submissions, the award of the Tribunal is modified as below:

Head	Modified award amount
For disability (Rs.3,000x40%)	Rs.1,20,000/-
Medical bills	Rs.73,802/-
Pain and Suffering	Rs.15,000/-
Extra Nourishment	Rs. 5,000/-
Attender charge	Rs. 5,000/-
Loss of Amenities	Rs. 5,000/-
Transportation	Rs. 5,000/-
Loss of income period of treatment (Rs.3,000x 2)	Rs. 6,000/-
Damage to cloth	Rs. 500/-
Total	Rs.2,35,302/-

Rounded off Rs.2,35,300/-



8. The respondent / Insurance Company herein is directed to deposit the award amount with interest at the rate of 7.5% per annum from the date of filing till the date of deposit within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the award amount on filing proper petition.

9. Accordingly, this Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rpl

To

1.The MACT/Sub Court, Namakkal.

2.The Section Officer,
V.R.Section, High Court, Madras.

+lcc to Mr.Ma.P.Thangavel, Advocate, S.R.No.36110

+lcc to Mr.S.Dhakshnamoorthy, Advocate, S.R.No.35756

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CNR(CO)
CB(28/09/2021)