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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2020

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.2420 of 2011

(Through Video Conferencing)

Mrs. P.Selvi @ P.Govindammal ... Appellant/Petitioner

Vs.

1.J.Kamala

2.M/s. United India Insurance Co. Ltd.,
C/o. Motor Third Party Claims Office,
No.38, Anna Salai,
Chennai - 600 002.

... Respondents/Respondents

(Appellant's name amended vide Court order dated
08.12.2020 made in C.M.P.No.21607 of 2017 in
C.M.A.No.2420 of 2011)

Civil Miscellaneous Appeal filed under Section 173 of Motor
Vehicles Act, 1988, against the award passed by the Motor
Accidents Claims Tribunal (Small Causes Court No.V) at Chennai
in M.C.O.P.No.5068 of 2004 dated 08.11.2010.

For Appellant : Mr.T.G.Balachandran

For 2nd Respondent: Mr.S.Arunkumar

J U D G M E N T

The claimant is the appellant in this Civil Miscellaneous
Appeal. She has filed this appeal for enhancement of
compensation awarded by the Motor Accidents Claims Tribunal (V
Court of Small Causes, Chennai) Chennai in M.C.O.P.No.5068 of
2004 vide impugned Judgment and Decree dated 08.11.2010.

2. By the impugned Judgment and Decree, the Tribunal has
awarded a sum of Rs.1,72,000/- as compensation together with
interest at 7.5% per annum from the date of claim petition till
the date of deposit and proportionate costs to the appellant for
the injuries suffered by her. The Tribunal has awarded the
aforesaid compensation under the following heads:-



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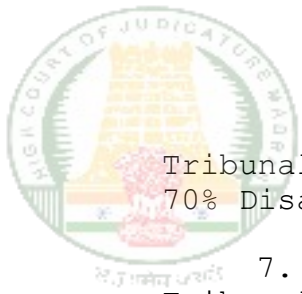
Heads	Amount
Permanent Disability (70 x 2,000)	Rs.1,40,000/-
Pain and Suffering	Rs. 15,000/-
Medical Expenses	Rs. 3,000/-
Transportation	Rs. 1,000/-
Extra Nourishment	Rs. 3,000/-
Damages to cloths and articles	Rs. 1,000/-
Temporary loss of income for 3 months (3 x 3,000)	Rs. 9,000/-
Total	Rs.1,72,000/-

3. The brief facts of the case are that on 30.10.2004 at about 6.30 hrs., while the appellant was crossing from East to West on the road of K.B.Nagar, 3rd Cross Street, Nehru Nagar 4th Street, a Water Tanker Lorry bearing registration number TN-07-S-7755 driven by its driver in a rash and negligent manner hit the appellant, as a result of which, the appellant sustained grievous injuries. Therefore, she filed a claim petition for compensation of Rs.3,00,000/-. After considering the evidence on record, the Tribunal has awarded the aforesaid compensation of Rs.1,72,000/-. Aggrieved by the same, the appellant has filed this Civil Miscellaneous Appeal for enhancement of compensation.

4. In this appeal, the appellant has stated that the Tribunal has not awarded just compensation for the injuries suffered by her.

5. I have considered the arguments advanced by 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.

6. The amount awarded by the Tribunal under conventional heads appears to be reasonable. However, the amount awarded towards injuries suffered by the appellant for a sum of Rs.1,40,000/- at the rate of Rs.2,000/- per percentage appears to be disproportionate to the injuries suffered by the appellant. It is noticed that the appellant was not only operated on 30.10.2004 but also suffered other injuries. Therefore, the compensation of Rs.1,40,000/- awarded by the



Tribunal is enhanced at the rate of Rs.3,000/- per percentage of 70% Disability (45% + 25%) assessed by the P.W.2 & P.W.2.

7. Similarly, the compensation of Rs.3,000/- awarded by the Tribunal towards Extra Nourishment appears to be low and same is enhanced to Rs.5,000/-. Considering the overall facts and circumstances of the case and the nature of injuries suffered by the appellant, I am inclined to enhance the compensation by another sum of Rs.72,000/- as follows:-

Heads	Amount awarded by the Tribunal	Amount awarded by this Court
Permanent Disability	* Rs.1,40,000/-	** Rs.2,10,000/-
Pain and Suffering	Rs. 15,000/-	Rs. 15,000/-
Medical Expenses	Rs. 3,000/-	Rs. 3,000/-
Transportation	Rs. 1,000/-	Rs. 1,000/-
Extra Nourishment	Rs. 3,000/-	Rs. 5,000/-
Damages to cloths and articles	Rs. 1,000/-	Rs. 1,000/-
Temporary loss of income for 3 months (3 x 3,000)	Rs. 9,000/-	Rs. 9,000/-
Total	Rs.1,72,000/-	Rs.2,44,000/-

* 70 x Rs.2,000/-.

** 70 x Rs.3,000/-.

8. Thus, the compensation of Rs.1,72,000/- awarded by the Tribunal is enhanced to Rs.2,44,000/-.

9. Therefore, the 2nd respondent Insurance Company is directed to deposit a sum of Rs.2,44,000/- together with interest at 7.5% per annum from the date of claim petition till the date of deposit, less any amount already deposited, within a period of six weeks from the date of receipt of a copy of this Judgment.

10. On such deposit, the appellant is permitted to withdraw the same together with interest, less any amount already withdrawn, by filling suitable applications before the Tribunal.



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

Sd/-
Assistant Registrar(CS-VIII)

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Sub Assistant Registrar

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Notes:-In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Small Causes Court No.V,
Motor Accidents Claims Tribunal,
Chennai.

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

+1cc to Mr.T.G.Balachandran, Advocate, S.R.No.42812

+1cc to Mr.S.Arunkumar, Advocate SR.42732

C.M.A.No.2420 of 2011

GP(CO)
CB(31/08/2021)