

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.139 of 2020

Shobana

.. Appellant/Petitioner

Vs.

1.Aravindababu

2.The Divisional Manager,
United India Insurance Company Ltd.,
Third Party Service Hub, Plot No.35, 36, 37
A.R.Plaza, 45, Feet Road, Balaji Nagar Extension,
Saram, Puducherry - 605 011. .. Respondents/ Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 04.09.2019 made in M.C.O.P.No.2408 of 2016 on the file of Motor Accident Claims Tribunal, I Additional Sub Court, Cuddalore.

For Appellant : Ms.Ramya V.Rao

For R2 : Ms.I.Malar

J U D G M E N T

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 04.09.2019 made in M.C.O.P.No.2408 of 2016 on the file of Motor Accident Claims Tribunal, I Additional Sub Court, Cuddalore.

2.The appellant is claimant in M.C.O.P.No.2408 of 2016 on the file of Motor Accident Claims Tribunal, I Additional Sub Court, Cuddalore. She filed the said claim petition claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by her in the accident that took place on 20.02.2016.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due

to rash and negligent riding by the rider of the motorcycle belonging to the 1st respondent and directed the 2nd respondent/Insurance Company being insurer of the said motorcycle to pay a sum of Rs.30,000/- as compensation to the appellant at the first instance and recover the same from the 1st respondent/owner of the motorcycle.

4. Not being satisfied with the quantum of compensation awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

5. The learned counsel appearing for the appellant contended that the appellant was aged 28 years at the time of accident and was earning a sum of Rs.15,000/- per month by working as agricultural coolie cum milk vendor. Due to the permanent loss of two teeth with crown which has been replaced artificially makes the disability as permanent, both esthetically and functionally. The appellant sustained loss of teeth, 2 incisor teeth broken and mobility of teeth, multiple injury on face, heavy impact on hip & chest and multiple injuries all over the body. She took treatment in Government Hospital, Panruti and subsequently she took treatment at various hospitals. Due to the injuries sustained by her, she could not do the work as she was doing earlier. The Tribunal has not awarded any compensation towards disability, attendant charges, pain & suffering, transportation, loss of amenities, medical expenses, loss of income and damage to clothes and awarded only a lumpsum amount of Rs.30,000/- as compensation and prayed for enhancement of compensation.

6. Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the appellant sustained only simple injuries. The appellant was not examined by Doctor and no disability certificate was marked. The Tribunal after considering all the materials available on record, has awarded just compensation. The appellant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

7. Heard the learned counsel appearing for the appellant as well as the 2nd respondent/Insurance Company and perused the entire materials available on record.

8. It is the contention of the appellant that in the accident, she sustained loss of teeth, 2 incisor teeth broken and mobility of teeth, multiple injury on face, heavy impact on hip & chest and multiple injuries all over the body. She has taken treatment in Government Hospital, Panruti and subsequently she has taken treatment at various hospitals. The appellant has

not examined Doctor to prove the nature of injuries and no disability certificate was marked. The appellant was referred to Medical Board and the Medical Board issued 'Nil' disability certificate. The disability certificate issued by the Medical Board was marked as Ex.C1. The learned counsel appearing for the appellant submitted that the appellant lost two teeth in front and life long she has to visit the hospital either for replacement or for maintaining the teeth. Due to the same, the Tribunal has awarded lump sum amount as compensation. Considering the nature of injuries sustained by the appellant, in addition to the amount awarded by the Tribunal, a sum of Rs.50,000/- is awarded towards loss of amenities. Thus, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1.	Lumpsum compensation	30,000	30,000	Confirmed
2.	Loss of amenities	-	50,000	Granted
	Total	Rs.30,000/-	Rs.80,000/-	Enhanced by Rs.50,000/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.30,000/- is hereby enhanced to Rs.80,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation. The 2nd respondent/Insurance Company is directed to deposit the enhanced award amount now determined by this Court along with interest and costs, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this judgment at the first instance and recover the same from the 1st respondent. On such deposit, the appellant/claimant is permitted to withdraw the enhanced award amount along with interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

mtl

To

1.The I Additional Subordinate Judge,
The Motor Accidents Claims Tribunal
Cuddalore.

Copy To:The Section Officer
V.R.Section
High Court, Chennai.

+1cc to Mr.A.N.Viswanatha Rao, Advocate SR.No.6119

+1cc to Mr.T.Ravichandran, Advocate SR.No.5789

C.M.A.No.139 of 2020

GS (CO)
GMY (21/08/2020)



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