

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.NO.2288 OF 2013

P.Vijayalakshmi

... Appellant/Claimant

..Vs..

1. Rajesh Ramakrishnan

2. ICICI Lombard General Insurance Co. Ltd.,
No.140, Chota Bai Complex,
Nungambakkam,
Chennai-600 034.

...Respondents/Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 28.03.2013 in M.A.C.T.O.P.No.4422 of 2008 on the file of the Motor Accident Claims Tribunal, III Judge, Court of Small Causes, Chennai.

For Appellant : Ms.M.Malar

For Respondents : R1- Ex-parte
: R2- No appearance

JUDGMENT

The appellant is the claimant in M.A.C.T.O.P.No.4422 of 2008 on the file of the III Judge, Court of Small Causes, Chennai. She has filed the above claim petition under Section 166 of the Motor Vehicles Act, 1988 and Rule 3 of M.A.C.T. Rules seeking compensation of Rs.7,00,000/- for the injuries sustained by her in a road accident that took place on 25.08.2008.

2.The case of the appellant/claimant is that on 25.08.2008 at about 01.30 PM, while the appellant was standing in front of Jothi Electronics, a motor cycle bearing Regn. No.TN-22-BA-6216 was driven by its driver in a rash and negligent manner on a wrong direction and hit the appellant. Thereby, the appellant sustained grievous injuries.

3. According to the appellant/claimant, the rash and negligent driving of the driver of the motor cycle bearing Registration No. TN-22-BA-6216 belonging to the first respondent was the cause of the accident and that since the said car was insured with the second respondent-Insurance Company, both of them are jointly and severally liable to pay compensation to her.

4. The owner of the motor cycle, namely the first respondent, remained absent before the tribunal and therefore, he was set ex-parte. The ICICI Lombard Insurance Company Limited contested the claim petition. The learned III Judge, Court of Small Causes, Chennai, after analysing the evidence of record, awarded compensation of Rs.3,16,460/- to the appellant/claimant together with interest at the rate of 7.5% per annum from the date of the claim petition. Not being satisfied with the award passed by the tribunal, the appellant/claimant has filed the present appeal seeking enhancement of compensation.

5. Heard the learned counsel for the appellant and perused the materials available on record.. The first respondent herein remained ex-parte before the trial Court and there is no representation on behalf of the second respondent.

6. It is seen that, at the time of accident, she was doing cool drinks business and was earning a sum of Rs.200/- per day. To prove her avocation and income, no document was filed. As per precedent, her income is safely fixed at Rs.4,500/- per month. Due to the injuries sustained in the accident, she would have been prevented from attending her work for a maximum of 6 months. Hence, a sum of Rs.27,000/- (Rs.4500/- x 6) is awarded by the Tribunal towards "loss of earning". Taking into consideration the nature of work and also the period for which the injured could be prevented from attending her work, the Tribunal has rightly awarded the compensation towards "loss of earning" and the same cannot be interfered with. The tribunal has awarded a sum of Rs.3,000/- towards "Transportation" and the same is also confirmed. The Tribunal has awarded Rs.7,000/- towards "Extra Nourishment", Rs.84,060/- towards "Medical expenses", Rs.15,000/- towards "Attender charges", Rs.40,000/- towards "pain and sufferings" and Rs.1,40,400/- towards "permanent disability". This Court is of the view that the amounts awarded under these heads are just and reasonable and the same cannot be altered.

7. The tribunal has awarded compensation under various heads, which is extracted hereunder:

S.No.	Head	Amount granted
1.	Loss of income	Rs. 27,000/-
2.	Transportation to Hospital	Rs. 3,000/-
3.	Extra Nourishment	Rs. 7,000/-
4.	Medical expenses	Rs. 84,060/-
5.	Attender charges	Rs. 15,000/-
6.	Pain and sufferings	Rs. 40,000/-
7.	Permanent disability	Rs.1,40,400/-
Total compensation		Rs.3,16,460/-

8.In the considered opinion of this Court, the award passed by the tribunal is perfectly in order and it does not need any interference by this Court.

9.In the result,

(i)The Civil Miscellaneous Appeal is dismissed. No costs.

(ii)The decree and judgment passed in M.A.C.T.O.P.No.4422 of 2008, dated 28.03.2013, on the file of the Motor Accident Claims Tribunal, III Judge, Court of Small Causes, Chennai, is upheld.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

sbn

To

1. The Motor Accidents Claims Tribunal,
III Court of Small Causes, Chennai.

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

+1cc to Ms.M.Malar, Advocate, S.R.No.16761

+1cc to M/S.R.Sreevidhya, Advocate, S.R.No.16906

C.M.A.No.2288 of 2013

KS (CO)
CS/19/12/2020