

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 25.08.2020

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE
C.M.A.No.3780 of 2011

S.Anandhi ... Appellant/ Petitioner
..Vs..

1.R.M.Sethuraman
(R1 exparte before the Tribunal)

2.The National Insurance Co. Ltd.,
No.751, Anna Salai
Chennai-6.

... Respondents/ Respondents

Prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, as against the judgment and decree dated 09.02.2007 made in MACT O.P No.1870 of 2002 on the file of the Motor Accident Claims Tribunal / Additional District Judge (Fast Track Court-II), Chennai.

For Appellant : Ms.A.Subadra
For M/s.M.Malar
For Respondents : Mrs.R.Sreevidhya for R2
R1 - Exparte

JUDGMENT

(This Appeal has been taken up for hearing through Video Conferencing)

This appeal has been filed by the Appellant/claimant seeking enhancement of compensation under the impugned award dated 09.02.2007 passed by the Motor Accident Claims Tribunal/ Additional District Judge, Fast Track Court-II, Chennai, in M.C.O.P No.1870 of 2002.

2. The Appellant/claimant sustained injuries on 05.03.2002, as a result of an accident caused by a vehicle owned by the first respondent and insured with the second respondent. She preferred a claim before the Motor Accident Claims Tribunal seeking compensation for the injuries sustained by her as a result of the accident. The Motor Accidents Claim Tribunal, under the impugned award, directed the respondents to pay the Appellant, a compensation of Rs.96,794/- together with interest and costs as detailed hereunder:

Heads	Award Amount (Rs.)
Pain and suffering	18,000/-

Heads	Award Amount (Rs.)
Medical Expenses	16,794/-
Loss of Amenities	20,000/-
Transport and Extra Nourishment	2,000/-
Partial & Permanent disability at 40%	40,000/-
Total	96,794/-

3. The Appellant/claimant was a house wife and she sustained fractures in the hip and spinal card and deep injuries in the right elbow and foot and multiple injuries all over her body.

4. Before the Tribunal, the Appellant/claimant has filed 13 documents which were marked as Ex.P1 to Ex.P13 and two witnesses were examined on her side, namely, the Appellant/claimant as PW1 and the Doctor who examined her as PW2. On the side of the respondents, neither any document was filed nor any witness examined before the Tribunal.

5. The Appellant/claimant has filed the discharge summary issued by Isabella Hospital (Ex.P4), medical certificate issued by PW2 Doctor (Ex.P5), wound certificate (Ex.P6), prescriptions slips issued by the Doctor (Ex.P7), hematology report (Ex.P8), scan report (Ex.P9), x-ray (Ex.P10) and medical bills (Ex.P11), disability certificate (Ex.P12) and X-ray (Ex.P13) to prove that she had sustained the injuries referred to supra and that she was hospitalized between 05.03.2002 and 17.03.2002. The Doctor (PW2) has assessed the disability of the Appellant/claimant at 45%. But, however, the Tribunal on its own without any basis, has reduced the disability to 40%. Since there was no evidence nor any explanation given by the Tribunal for reduction of the disability from 45% to 40%, the assessment of the disability by the Doctor (PW2) at 45% is retained by this Court. The Tribunal has awarded a compensation of Rs.40,000/- to the Appellant/claimant towards the disability based on 40% disability. The disability compensation is enhanced to Rs.45,000/- by this Court calculated at Rs.1000/- per percentage of the disability for the 45% disability assessed by this Court. The Tribunal has not awarded attender charges under the impugned award. The Appellant/claimant having sustained fractures in the hip and spinal card, attender charges would have been necessary for her during the period of her treatment and during her post operation. Therefore, this Court awards Rs.3,000/- as compensation to the Appellant/claimant towards attender charges.

6. Insofar as the compensation awarded by the Tribunal under the head of transportation and extra nourishment at Rs.2,000/- is concerned, the said compensation is low and it has to be necessarily enhanced to Rs.4,000/- for the reasons stated above.

7. With regard to the compensation awarded by the Tribunal under the various other heads namely, pain and suffering, medical expenses and loss of amenities are concerned, the same is a just compensation and it does not call for any interference by this Court.

8. For the forgoing reasons, the compensation awarded by the Tribunal under the impugned award is enhanced from Rs.96,794/- to Rs.1,06,794/- in the following manner:

Heads	Amount awarded by the Tribunal	Award Amount (Rs.)
Pain and suffering	18,000/-	18,000/-
Medical Expenses	16,794/-	16,794/-
Loss of amenities	20,000/-	20,000/-
Transport and Extra Nourishment	2,000/-	4,000/-
Partial and Permanent disability	40,000/-	45,000/-
Attender charges	...	3,000/-
Total	96,794/-	1,06,794/-

Conclusion:

9. In the result, this appeal is partly allowed. However, the rate of interest fixed by the Tribunal at the rate of 7.5% is confirmed. The second Respondent/Insurance Company is directed to deposit the modified amount i.e, Rs.1,06,794/- along with interest and costs, after deducting the amount already deposited, if any, to the credit of MCOP.No.1870 of 2002 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is

directed to transfer the award amount along with accrued interest as per the order of this Court to the Appellant/claimant through RTGS within a period of two weeks thereafter. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accident Claims Tribunal / Additional District Judge
(Fast Track Court-II), Chennai.

+1cc to M/s.M.Malar, Advocate SR.No. 27670

C.M.A.No.3780 of 2011

A.SK(20.04.2021)