

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 02.09.2020

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN
C.M.A.No.1619 of 2016

S.Premavathy

...Appellant/ Petitioner

/versus/

1.M.Rajee

2.The Branch Manager,
Reliance General Insurance Co.Ltd.,
Reliance House, 6th Floor, Nungambakkam,
Chennai-2 ...Respondents/ Respondents

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act against the Decree and Judgment dated 12.01.2016 and made in M.C.O.P.No.5626 of 2013 on the file of the Motor Accident Claims Tribunal, (IV Small Causs Court), Chennai.

For Appellant : Ms.V.Revathy
for Mr.R.Nalliyappan

For Respondents : No appearance for R1
Mr.S.Arunkumar 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 respondent.

2. This appeal is preferred by the accident victim/claimant for enhancement of compensation awarded by the Tribunal, which in view of the claimant is low. The case of the claimant is that on 15.09.2013, when she was walking along the Vanniyar Street, Arcot Road, a motorcycle bearing registration No.TN 10 AL 5103 dashed on her due to the rash and negligence of the motorist. In the said accident she was injured and taken to the hospital. In the said accident her left leg was fractured and her head got injured. She was taken to the Government hospital for first aid and shifted to private hospital. She was treated as in-patient for 28 days and got discharged. The claim petition was filed seeking of Rs.7,00,000/- as compensation.

3. The Tribunal after going through the records, particularly the medical bills and the evidence given by the doctor regarding the disability has fixed the partial permanent disability as 25% and had awarded Rs.1,93,150/- under the following heads:

1. Disability (Rs.3000x25%)	: Rs.75,000.00
2. Pain and sufferings	: Rs.50,000.00
3. Extra nourishment	: Rs. 5,000.00
4. Transport to Hospital	: Rs. 5,000.00
5. Damages to cloth	: Rs. 1,000.00
6. Attender charges	: Rs.11,750.00
7. Medical expenses	: Rs. 9,400.00
8. Future Medical Expenses	: Rs. 5,000.00
9. Loss of Income	: Rs.19,500.00
10. Loss of earning power	: Rs. 6,500.00
11. Loss of Amenities	: Rs. 5,000.00
Total	: Rs.1,93,150.00

4. The learned counsel appearing for the claimant/appellant would submit that the fixation of disability by the Tribunal is low. The disability caused due to the head injury has not been compensate by the Tribunal.

5. The learned counsel for the Insurance Company would submit that the claimant who around 52 years old at the time of accident she was hit by the motorist who never had driving license. The accident was due to the negligence on the part of the claimant. However, the Tribunal has liberally awarded Rs.1,93,150/- granting compensation for certain heads which the claimant is not entitled. Pointing out that the Tribunal has awarded Rs.15,000/- for pain and sufferings; Rs.11,750/- for attender charge; Rs.19,500/- for loss of income; and Rs.6,500/- for the loss of earning capacity during the treatment period are all on in excess. The learned counsel for the Insurance Company would further submit that the award of the Tribunal need not be interfered.

6. The learned counsel for the appellant urged for enhanced compensation on the ground that the injury sustained by the claimant has caused her loss of amenities since she was around 52 years old. The injuries have caused permanent disability for her. Though she has suffered loss of amenities and earning capacity, the Tribunal has erroneously reduced the percentage of disability from 42% to 25%.

7. This Court on going through the evidence of doctor and the medical records would finds that the percentage of disability fixed by the Tribunal is appropriate. The Tribunal has taken care of other aspects like pain and sufferings, loss of income and earning capacity, loss of amenities and had awarded a fair and reasonable compensation for those loss. Hence

this Court finds no reason to interfere the order of the Tribunal.

8. In the result, this Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

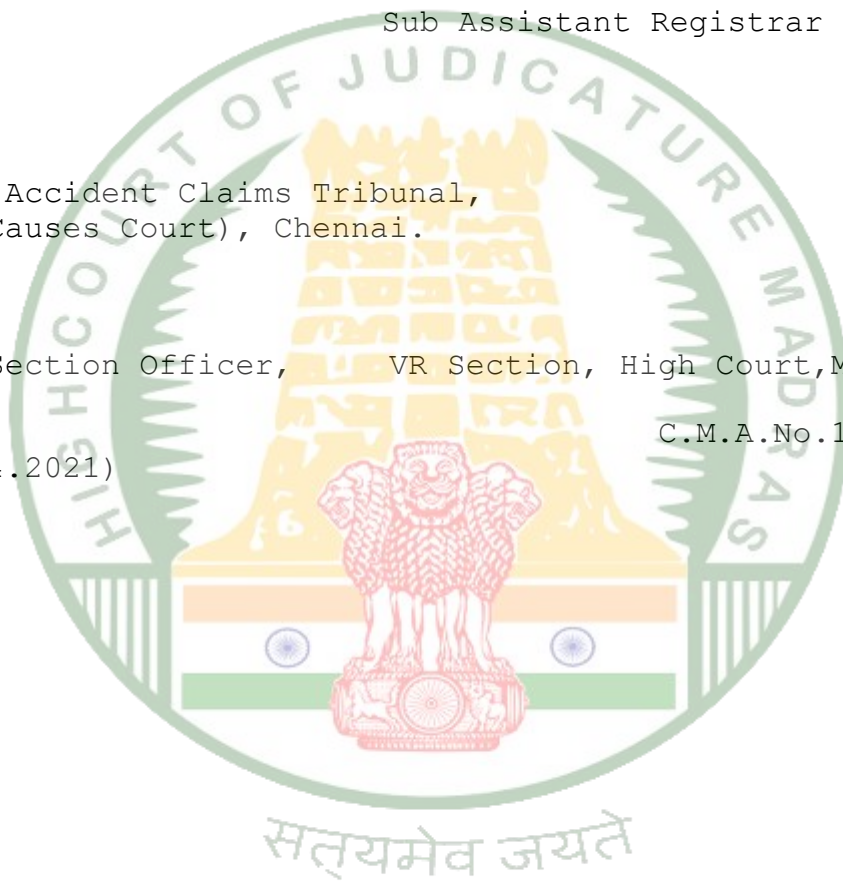
The Motor Accident Claims Tribunal,
(IVSmall Causes Court), Chennai.

Copy to:

The Section Officer, VR Section, High Court, Madras.

C.M.A.No.1619 of 2016

A.SK(29.04.2021)



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