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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2020

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.M.A.No.483 of 2015

Priency

...Appellant / Petitioner

/ versus /

1.Francis

2.S.Thangamani

3.ICICI Lombard General Insurance Company Ltd,
Rep. by its General Manager,
United Arcade,
3rd Floor, Annamalai Nagar,
Karur Bypass Road,
Thillai Nagar,
Trichy - 628 018.

...Respondents / Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act pleaded to enhance the quantum of compensation from Rs.24,083/- to Rs.1,00,000/- payable by the respondents to the Appellant by suitably enhancing the compensation by award dated 06.07.2012 in M.A.C.T.O.P.No. 03 of 2011, on the file of the Motor Accident Claims Tribunal, Karaikal.

For Appellant : Mr.S.Kishore Kumar
for Mr.D.Bharatha Chakkaravarthy

For Respondents : Mrs.R.Sreevidhya for R3.
R1 & R2 - Exparte.

J U D G M E N T

(The case has been heard through video conference)

The appeal is filed by the claimant being unsatisfied with the award passed by the Tribunal for the injuries sustained by her in a road accident.

2. According to the appellant on 05.03.2010, she was proceeding in TVS Scooty Teenz bearing Reg.No.PY-02/H-4735 along with her friend Umadevi on the pillion. Near Bharthiyar



Road, a Tipper lorry bearing Reg.No.TN-32/T-8556 came rash and negligently and hit the two wheeler causing fractured injury on her legs below the knee joint. Her two wheeler also was severely damaged. She was taken to the General Hospital, Karaikal and admitted as Inpatient. She was in the General Hospital, Karaikal for about 5 days as inpatient. Thereafter, shifted to C.S.I. Mission General Hospital, Woraiyur, Tiruchy. A surgery was conducted on 14.04.2010 and other procedures of skin grafting were done on 24.04.2010.

3. The claim petition assessing compensation of Rs.1,50,000/- but restricted to Rs.1,00,000/-, was filed before the Motor Accident Claims Tribunal, Karaikal. On considering the material evidences and pleadings, the Tribunal awarded Rs.24,083/- as compensation.

4. The learned counsel appearing for the appellant would submit that inspite of submitting bills under Ex.P6 series for Rs.30,603/-, the Tribunal has omitted to take note of the advance of Rs.16,520/- and further the Tribunal has not given any compensation for the Transport charges, pain and suffering and disability.

5. The learned counsel for the appellant would further submit that the injury has caused degloving leading to skin grafting. The claimant being 25 years old woman, the pain and suffering and disfigurement were not taken into consideration by the Tribunal.

6. The learned counsel for the Insurance Company would submit that the Tribunal has considered the medical bills produced by the claimant and awarded Rs.14,083/- towards medical expenses and Rs.10,000/- under the conventional head, totally a sum of Rs.24,083/-. He submitted that there is no material evidence to interfere with the quantum of compensation awarded by the Tribunal.

7. This Court along with the respective counsels, perused the records particularly the bills adduced by the claimant in Ex.P-6 series. In serial 43 as pointed out by the counsel for the appellant, the Tribunal has taken only a sum of Rs.1,155/-. it has missed to note that the bill dated 24.04.2010 issued by C.S.I. Mission General Hospital, Woraiyur, Tiruchy is for Rs.17,675/- out of which the advance Rs.16,520/- has been deducted and Rs.1,155/- was shown as balance to be paid. The Tribunal erred in omitting a sum of Rs.16,520/-. Hence, Rs.16,250/- ought to be awarded to the compensation towards medical expenses.

8. This Court finds that the amount awarded under other non conventional head requires enhancement, in view of the fact that



the injured was shifted from one hospital to other for further treatment. She had also undergone surgery, after admitted in the Hospital as inpatient for 11 days. Therefore, the award of the Tribunal is modified as under;

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Transport Charges	Rs.5,000/-
Pain and suffering	Rs.10,000/-
Medical Expenses	Rs.30,603/-
Disfigurement	Rs.10,000/-
Total	Rs.55,603/-

9. Accordingly, the Civil Miscellaneous Appeal is partly allowed. No costs. The claimant is entitled for interest at the rate of 7.5% from the date of numbering till realisation. The learned counsel for the Insurance Company submits that compensation of the claim amount had already been deposited, if so the balance amount shall be deposited within a period of six weeks from the date of receipt of a copy of this order and on such deposit the claimant is permitted to withdrawn the same on proper petition.

Sd/-
Assistant Registrar(CS-VIII)

//True copy//

Sub Assistant Registrar

kmm

To

The Motor Accident Claims Tribunal,
Karaikal.

C.M.A.No.483 of 2015

RLD(CO)
RVM(13/08/2021)