

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN
C.M.A.No.3513 of 2012

P.Bamini ... Appellant/Petitioner
Vs.

1. N.R.Associate
2/2, Veteran Lane,
Chennai - 43. (Set exparte in trial Court)

2.ICICI Lombard General Insurance Co Ltd,
No.140,. Chootabai Centre,
Nungambakkam, Chennai - 34. ... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree made in MCOP.No.373 of 2010 dated 28.08.2012 on the file of the Motor Accident Claims Tribunal, III Additional District Court, Poonamallee.

For Appellant : Mr. J.Mahalingam
For Respondents : R1 - Set Exparte.
R2 - M/s.S.R.Srividhya.

J U D G M E N T

The appellant is the claimant filed this appeal for enhancement of compensation.

2. On 02.01.2009 at about 7.45pm when the appellant was travelling as a pillion rider in Motor cycle bearing registration No.TN22 AV 8195 near Porur, at that time, the van belonging to first respondent was driven by its driver in a rash and negligent manner at a high speed came in the same direction hit the motor cycle and thus caused the accident. Thereby the claimant sustained grievous injuries and admitted in Sri Ramachandra Medical Centre as inpatient from 02.01.2009 to 13.01.2009.

3. The learned counsel appearing for the second respondent/insurance company submitted that the accident had not occurred due to the rash and negligent driving of the second respondent and denied the age, occupation, income and injuries sustained by the claimant. The accident took place only on

account of the negligence of the driver of the motor cycle and the insurance company is not liable to pay the compensation.

4. In order to prove the case of the claimant, the claimant examined herself as PW1 and the Doctor as PW2 and marked Ex.P1 to Ex.P11. No oral and documentary evidence has been marked on the side of the respondents.

5. Heard both sides and perused the materials available on record.

6. The learned counsel for the appellant submitted that claimant sustained fracture in left zygomatic arch with soft tissue injury on the left side of the face and nearly 50 stitches made on the left side of the face, soft tissue injury on the right leg, left brachial plexus injury and other serious multiple injuries all over the body. PW2 examined and assessed the disability for the hearing impairment of the left ear to the tune of 20%, disablement for zygomatic fracture to the tune of 10%, fracture of spine to the tune of 10% and defect in facial nerve and disfiguration to the tune of 5% totalling of 65% partial permanent disability. The claimant was taking treatment as inpatient for 11days at Sri Ramachandra Medical Centre.

7. The learned counsel for the second respondent/insurance company submitted that the Tribunal has rightly considered the entire facts and the nature of injuries sustained by the claimant and awarded fair compensation which is on higher side.

8. From the available records, it is seen that the tribunal has rightly considered the case of the claimant and awarded fair compensation. With regard to the extra nourishment the claimant sustained injuries in her face and jaws, she is not in a position to open her mouth to have a healthy food as like others, she was taking only liquid food for certain period of time, this Court is inclined to enhance the compensation from Rs.3,000/- to Rs.10,000/- under the head of extra nourishment. The award passed by the Tribunal in other respects remains unaltered.

9. This Court however considering the material factors relevant for determination of just and fair compensation is inclined to enhance the compensation as stated below, the enhanced compensation on the is as follows :-

Sl.No.	Heads	Amount
1	Transportation	3,000
2	Extra nourishment	10,000
3	Loss of hearing	10,000

Sl.No.	Heads	Amount
4	Damages to clothing and articles	1,000
5	Pain and sufferings	20,000
6	Permanent Disability	1,20,000
	Total	1,64,000

10. The compensation of Rs.1,57,000/- is enhanced to Rs.1,64,000/-. The same is payable with interest at 7.5% per annum from the date of petition till the date of payment and with proportionate cost. The time for payment of balance amount is eight weeks from the date of receipt of copy of the Judgment and on such deposit of amount, the claimant is permitted to withdraw the entire amount by filing separate cheque application.

11. In the result, the Civil Miscellaneous appeal is partly allowed. No costs.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

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To
The Motor Accident Claims Tribunal,
III Additional District Court, Poonamallee.

copy to
The Section Officer
VR Section
High Court Madras

+1 cc to Mrs.R.Sreevidhya Advocate sr464
+1 cc to Mr.J.Mahalingam Advocate sr431

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