

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.02.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.2881 of 2013

A.Maheswari

... Appellant/Petitioner

Vs.

1.A.Vijayarangan

2.Reliance General Insurance Company Limited
No.6, Haddows Road, 6th floor
Chennai-6

... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the common judgment and decree in M.C.O.P. No.3581 of 2010 dated 28.02.2013 on the file of the V Judge, Small Causes Court (Motor Accidents Claim Tribunal), Chennai and praying to set aside the same.

For Appellant : Mr.A.Shanmugaraj

For Respondents : Mr.K.Moorthy for R2
R1 - Exparte

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant/claimant seeking enhancement of compensation granted by the Tribunal in the award dated 28.02.2013 on the file of the V Judge, Small Causes Court (Motor Accidents Claim Tribunal), Chennai, in M.C.O.P.No.3581 of 2010.

2.The appellant is the claimant in M.C.O.P. No.3581 of 2010 dated 28.02.2013 on the file of the V Judge, Small Causes Court (Motor Accidents Claim Tribunal), Chennai. She filed the said claim petition claiming a sum of Rs.2,00,000/- as compensation for the injuries sustained by her in the accident that took place on 20.11.2009.

3.The case of the appellant is that on 20.11.2009, at about 10.00 hours, when the petitioner was travelling in a scooter bearing Reg. No.TN-09-AT-5565 as a pillion rider, proceeding towards Velacherry Main Road from North to South direction, at that time a car bearing Reg.No.TN-32-D-6863 came in a rash and negligent manner and dashed against the petitioners scooter, thereby both of them sustained grievous injuries. Immediately after the accident, the petitioner was taken to Government Hospital, Chennai and then she was shifted to Dr.Kamatchi Memorial Hospital.

4.The Tribunal, after considering the pleadings, oral and documentary evidence, held that the accident occurred due to the rash and negligent driving by the driver of the car belonging to the 1st respondent and directed the insurer of the 1st respondent vehicle being the 2nd respondent, to pay a sum of Rs.33,000/- towards compensation to the appellant. Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

5.Heard Mr.Shanmugaraj, learned counsel appearing for the appellant / claimant and Mr.R.Moorthy, learned counsel appearing for the respondent 2nd respondent.

6.On a perusal of the records, it is clear that the claimant has sustained grievous injuries. (PW1) in his evidence has stated that the appellant took treatment at Dr.Kamatchi Memorial Hospital as inpatient and thereafter treated as outpatient at Government Royapettah Hospital and Saidapet Government Hospital. Ex.P4 is the discharge summary issued by Dr.Kamatchi Memorial Hospital, reveals that the claimant sustained both ear bleeding with impaired hearing in right ear, multiple abrasion left wrist joint left forearm, abrasion over right side of back of scapula, swelling and contusion over parieto occipital region and treated conservatively. Dr.J.R.R.Thiagarajan (PW3) has assessed the disability as 40%, but the Tribunal has fixed it at 10%, converting the same in respect of the whole body the percentage is 1/3rd which is taken as 3% According to the claimant, She was a sales girl and was earning Rs.5,000/- per month. She had filed her salary certificate but the employer of the petitioner has not been examined. Hence, the Tribunal fixed a sum of Rs.3,000/- towards monthly income. If 1/3rd is deducted towards personal expenses, the loss of income per month is fixed to Rs.3,000/-. The age of the claimant is found to be 30 years. Hence, the proper multiplier would be 17 and awarded a sum of

Rs.18,360/- (3,000 X 12 X 17 X 3%) towards pecuniary loss. Considering the nature of injuries, this Court is of the view that the amount awarded by the tribunal under the head of pecuniary loss is very low and the same is hereby enhanced to Rs.20,196/-. Taking into account of the age of the petitioner, Rs.17,800/- is awarded towards the Head Loss of Future Amenities. The Tribunal has not awarded any amount towards transport to hospital and extra nourishment and this Court awards a sum of Rs.2,000/- under the head of transportation to hospital and Rs.3,000/- towards Extra Nourishment. The Tribunal has awarded only Rs.5,000/- towards pain and suffering which is very less and the same has been enhanced to Rs.10,000/-. The amount awarded by the Tribunal under other head is hereby confirmed. The award passed by this Court under various head is extracted hereunder:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1	Pecuniary Loss	18,360/-	20,196/-	enhanced
2	Loss of income	2,000/-	2,000/-	Confirmed
3	Medical expenses	7,363/-	7,363/-	confirmed
4	Pain & suffering	5,000/-	10,000/-	Enhanced
5	Transportation	Nil	2,000/-	awarded
6	Loss of Future Amenities	Nil	17,800/-	awarded
6	Extra Nourishment	Nil	3,000/-	awarded
	Total	Rs.33,000/- (Rs.32,723/- rounded to Rs.33,000/-)	Rs.62,500/- (Rs.62,359/- rounded to Rs.62,500/-)	enhanced by Rs.29,500/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal is at Rs.33,000/- is hereby enhanced to Rs.62,500/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation.

The 2nd respondent/ Insurance is hereby directed to deposit the enhanced award amount now determined by this Court along with interest and costs, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant/claimant is permitted to withdraw the enhanced award amount along with interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The V Judge,
Small Causes Court,
Motor Accident Claims Tribunal,
Chennai

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

+1cc to Mr.K.Moorthi, Advocate Sr.11091
+1cc to Mr.A.Shanmugaraj, Advocate Sr.11234

C.M.A.No.2881 of 2013

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srg 10/05/2021

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