

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2020

C O R A M

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.3447 of 2013

M.Ponlatha (Minor)

Rep., by F&N F.D. Maripandian,
No.22, Shasthri III Cross Street,
Kaveri Nagar,
Saidapet,
Chennai 600 015.

...appellant/ Petitioner

Vs

1. C.Babu

2. ICICI Lombard General Insurance Co.Ltd.,
No.140, 3rd floor,
Nungambakkam High Road,
Chennai 600 034.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 to set aside the order made in M.C.O.P.No.3582 of 2010 on the file of the Motor Accident Claims Tribunal, XIX Additional Court, Chennai, dated 11.02.2013 and for enhancement of compensation.

For Petitioner : Mr.A.Shanmugaraj

For Respondents : Mrs.R.Sreevidhya for R2
R1 - Ex-parte

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation of the award dated 11.02.2013 made in M.C.O.P.No.3582 of 2010 on the file of the Motor Accident Claims Tribunal, XIX Additional Court, Chennai.

2. The appellant herein is the claimant in M.C.O.P.No.3582 of 2010 on the file of the Motor Accident Claims Tribunal, XIX Additional Court, Chennai. She filed the above said claim

petition claiming a sum of Rs.3,00,000/- as compensation for the injuries sustained by her in the accident that took place on 02.12.2009.

3. The case of the appellant is that on 02.12.2009 at 05.30 p.m., while the appellant was crossing Sastri 3rd street, a car bearing Regn No.TN-22-BC-4764 driven by its driver in a rash and negligent manner, dashed against the parked auto rickshaw and then hit against the minor appellant. Due to the said impact, the child sustained grievous injuries all over the body.

4. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to the rash and negligent driving by the driver-cum-owner of the car belonging to the first respondent and insured with the second respondent and directed the second respondent to pay a sum of Rs.1,69,800/- as compensation to the appellant/claimant on behalf of the first respondent.

5. Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

6. Heard the learned counsel appearing for the appellant as well as the second respondent and perused the materials available on record.

7. From the materials on record, it is seen that P.W.2 has examined the appellant and assessed the disability at 55%. But the Tribunal has reduced the same to 50% and awarded a sum of Rs.1,00,000/- (Rs.2,000/- per percentage) towards "disability". Accident had occurred in the year 2009 and this Court is of the view that awarding a sum of Rs.1,50,000/- at the rate of Rs.3,000/- per percentage for the same is just and reasonable. The Tribunal has awarded a sum of Rs.20,000/- towards "pain and sufferings" and the same is hereby enhanced to Rs.25,000/-. the Tribunal has awarded a sum of Rs.31,000/- towards "medical expenses", the same is confirmed. The Tribunal has awarded a sum of Rs.12,800/- towards "out patient medical bills", the same is also hereby confirmed. The Tribunal has awarded a sum of Rs.3,000/- each towards "Transportation" and "Nutrition", which is very meagre and the same is hereby enhanced to Rs.5,000/- each. The Tribunal has not awarded any amount towards "attendant charges", "damages to clothes and articles" and "loss of amenities", this Court is inclined to award a sum of Rs.5,000/-, Rs.1,000/- and Rs.15,000/- respectively for the same. The amounts awarded by the Tribunal under other heads are confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Permanent disability	1,00,000/-	1,50,000/-	enhanced
2.	Pain and Suffering	20,000/-	25,000/-	enhanced
3.	Medical expenses	31,000/-	31,000/-	confirmed
4.	Out patient Medical Bills	12,800/-	12,800/-	confirmed
5.	Transportation	3,000/-	5,000/-	enhanced
6.	Nutrition	3,000/-	5,000/-	enhanced
7	Attendant Charges	-----	5,000/-	awarded
9	Damages to Clothes	-----	1,000/-	awarded
10.	Loss of amenities	-----	15,000/-	awarded
	Total	Rs.1,69,800/-	Rs.2,49,800/- rounded off by Rs.2,50,000/-	80,200enhanced by Rs./-

8. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,69,800/- is hereby enhanced to Rs.2,50,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The second respondent-Insurance Company is directed to deposit the enhanced award amount along with interest and costs now determined by this Court, 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 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(CS VIII)

//True Copy//

Sub Assistant Registrar

sbn

To

1.The Motor Accident Claims Tribunal,
XIX Additional Judge,
XIX Additional Court,
Court of Small Causes, Chennai

1 cc to MS.R. Sree Vidhya, Advocate, Sr. 15783
1 cc to MR.A. Shanmugaraj, Advocate, Sr. 15727

C.M.A.No.3447 of 2013

MR (CO)
kk 15/12