

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.3491 of 2013

M.Jayanthi ... Appellant/Petitioner

Vs

1.Mrs.E.Vimala

2.M/s. IFFCO TOKIO General
Insurance Co.Ltd.,

No.28 (old.No.195), II floor,
North Usman Road,
T.Nagar, Chennai-600 017.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 to set aside the order made in M.A.C.T.O.P.No.2191 of 2009 on the file of the Motor Accident Claims Tribunal, VI Court of Small Causes, Chennai, dated 10.12.2011 and for enhancement of compensation.

For Petitioner : Mr.C.Munuswamy

For Respondents: Mr.C.R.Krishnamoorthy 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 10.12.2011 made in M.A.C.T.O.P.No.2191 of 2009 on the file of the Motor Accident Claims Tribunal, VI Court of Small Causes, Chennai.

2. By consent of both the parties, this Civil Miscellaneous Appeal is taken up for final disposal.

3. The appellant herein is the claimant in M.A.C.T.O.P.No.2191 of 2009 on the file of the Motor Accident Claims Tribunal, VI Court of Small Causes, Chennai. She filed the above said claim petition claiming a sum of Rs.7,00,000/- as compensation for the injuries sustained by her in the accident that took place on 24.06.2009.

4. The case of the appellant is that on 24.06.2009 at 11.00 hours, when the appellant was riding TVS Scooty bearing Regn.No.TN-38-X-4591 along Anna Salai from South to North

direction near Nandanam signal with due care and diligence, a Car bearing Regn.No.TN-09-AV-0463 came from West to East direction in a rash and negligent manner without following traffic rules and regulations and dashed against the appellant. Thereby the appellant sustained grievous injuries.

5. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to the rash and negligent driving by the rider-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.3,90,084/- as compensation to the appellant/claimant on behalf of the first respondent.

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

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

8. From the materials on record, it is seen that P.W.2/ Dr.J.R.R.Thiagarajan has examined the appellant and assessed the disability as 70%. The Tribunal has accepted the same and awarded a sum of Rs.1,40,000/- (70 X 2000) towards "Disability". Considering the nature of injuries sustained by the appellant, this Court feels it proper to enhance the amount awarded per percentage from Rs.2,000 to Rs.3,000/- and reduced the percentage of disability to 65% and awards a sum of Rs.1,95,000/- (65 X 3000) for the same. The Tribunal has awarded a sum of Rs.50,000/- towards "loss of income", which is hereby confirmed. The Tribunal has awarded a sum of Rs.2,000/- towards "attender charges", which is very meager and the same is hereby enhanced to Rs.5,000/-. The Tribunal has awarded a sum of Rs.35,000/- towards "pain and sufferings" the same is hereby confirmed. 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	1,40,000/-	1,95,000/-	enhanced
2.	Pain and Suffering	35,000/-	35,000/-	confirmed
3.	Medical expenses	1,45,084/-	1,45,084/-	confirmed

4.	Transportation	10,000/-	10,000/-	confirmed
5.	Extra Nourishment	7,000/-	7,000/-	confirmed
6.	Loss of income	50,000/-	50,000/-	confirmed
7	Damages to Cloths and articles	1,000/-	1,000/-	confirmed
9	Attendant charges	2,000/-	5,000/-	enhanced
	Total	Rs.3,90,084/-	Rs.4,48,084/-	enhanced by Rs.58,000/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.3,90,084/- is hereby enhanced to Rs.4,48,084/- together 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 already withdrawn, if any. No costs.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

Sbn

To

The Motor Accident Claims Tribunal,
VI Court of Small Causes, Madras.

Copy To

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

+1cc to Mr.C.Munusamy, Advocate, S.R.No. 15341

+1cc to Mr.C.R.Krishnamoorthy, Advocate, S.R.No. 15956

C.M.A.No.3491 of 2013

RR(CO)

GN(21/04/2021)