

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.3589 of 2013

S.Rajathi

... Appellant /Petitioner

Vs.

1.A.Murugan

2.M/s.Reliance General Insurance Co. Ltd.,

Sri. Lakshmi Complex, 1st Floor,

Omalar Main Road, Swamapuri,

Salem-636 004.

... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 13.09.2012 made in M.C.O.P.No.436 of 2010 on the file of Motor Accident Claims Tribunal, District Judge, Perambalur.

For Appellant : Mrs. C.Sangamithirai

For R1 : Ex-parte

For R2 : Mr.K.Moorthy

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant seeking enhancement of compensation granted by the Tribunal in the award dated 13.09.2012 made in M.C.O.P.No.436 of 2010 on the file of Motor Accident Claims Tribunal, District Judge, Perambalur.

2.The appellant is the claimant in M.C.O.P.No.436 of 2010 on the file of Motor Accident Claims Tribunal, District Judge, Perambalur. She filed the said claim petition claiming a sum of Rs.4,00,000/- as compensation for the injuries sustained by her in the accident that took place on 18.04.2010.

3.The case of the appellant is that on 18.04.2010, the appellant was travelling in an auto bearing Regn.No.TN-32-Q-1242 along with her relative one Raja. The said auto was started from Attur bus stand in order to get to Narasingapuram and proceedings on the Attur-Vinayagapuram main road. At about 12.30 hours, while the above said auto was proceeding in the bridge on its left side, which is at opposite of Anbu Service Centre, Vinayagapuram, a lorry bearing Regn. No.TN-22-A-9333, belonging to the 1st respondent and insured with the second respondent, which was coming in the opposite direction driven by its driver in a rash and negligent manner at hectic and uncontrollable speed without honking and without observing the rules of road, dashed against the auto. Due to the sudden impact, the petitioner and her relative Raja sustained multiple 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 of the lorry and directed the second respondent to pay a sum of Rs.1,35,000/- as compensation to the appellant on behalf of the first respondent. 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 Mrs.C.Sangamithirai, learned counsel for the appellant and Mr.K.Moorthy, learned counsel appearing for the second respondent.

6.A perusal of the records shows that the claimant has sustained grievous injuries all over the body. Dr.Ashokkumar (PW2) has assessed the partial permanent disability as 42% and the Tribunal has reduced the same to 40%, at the rate of Rs.1,500/- per percentage, the Tribunal has awarded a sum of Rs.60,000/- towards the partial permanent disability. Considering the age of the petitioner and the nature of injuries sustained, this Court is inclined to enhance the rate of disability to Rs.2,000/- per percentage and awards a sum of Rs.80,000/- (Rs.2,000 X 40). The Tribunal has awarded a sum of Rs.15,000 under the head of pain and suffering. This Court feels that the same is meager and enhances the same to Rs.25,000/-. The Tribunal has awarded a sum of Rs.5,000/- each towards Extra nourishment and Medical expenses. Considering the facts and circumstances of the case, this Court is inclined to enhance the same to Rs.10,000/- each. It is seen that the appellant was working as a coolie and earning a sum of Rs.6,000/-, for which

he has not produced any material evidence. The Tribunal, by taking into account the treatment period of the claimant, has awarded a sum of Rs.5,000/- towards loss of income. Considering the cost of living and also loss of earning capacity, this Court is of the view that the appellant could be prevented from carrying out her routine work for a minimum period of six months. Hence, a sum of Rs.30,000/- (Rs.5,000 X 6) is awarded by this Court towards 'loss of income'. The amount awarded by the Tribunal under other heads are just and reasonable and they are confirmed hereby. The award passed by this Court under various heads is extracted hereunder:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Disability	60,000/-	80,000/-	enhanced
2.	Pain and Sufferings	15,000/-	25,000/-	enhanced
3.	Extra Nourishment	5,000/-	10,000/-	enhanced
4.	Damages to Clothes	1,000/-	1,000/-	confirmed
5.	Transportation	19,000/-	19,000/-	confirmed
6.	Medical Expenses	5,000/-	10,000/-	enhanced
7.	Loss of Income	5,000/-	30,000/-	enhanced
8.	Surgery Treatment	25,000/-	25,000/-	confirmed
	Total	Rs.1,35,000/-	Rs2,00,000/-	enhanced by Rs.65,000/-

6. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,35,000/- is hereby enhanced to Rs.2,00,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant is directed to pay necessary Court fee, if any, on the enhanced compensation. The second respondent is 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 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(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1.The Motor Accident Claims Tribunal
District Court,
Perambalur.

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

+1cc to M/s.C.Sangamithirai, Advocate Sr.2689

+1cc to Mr.K.Moorthy, Advocate Sr.2809

C.M.A.No.3589 of 2013

srg 06/08/2020

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