

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A. No. 3738 of 2013

Crystal Zachariah

.. Appellant/Petitioner

Vs.

1.Liagat Qurashi

2.M/s. Bajaj Allianz General Insurance Co. Ltd.,
25/26, Prince Towers, 4th Floor,
College Road,
Nungambakkam,
Chennai 2.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 18.08.2011, made in M.C.O.P. No. 2495 of 2006, on the file of the V Small Causes Court, (Motor Accident Claims Tribunal), Chennai.

For Appellant : Mr. F. Terry Chella Raja

For Respondents: Mr. N. Somasundar (for R2)
R1-Not Ready in Notice

J U D G M E N T

This Civil Miscellaneous Appeal has been filed seeking enhancement of the compensation granted by the award dated 18.08.2011, made in M.C.O.P. No. 2495 of 2006, on the file of the V Small Causes Court, (Motor Accident Claims Tribunal), Chennai.

2.The appellant is claimant in M.C.O.P. No. 2495 of 2006, on the file of the V Small Causes Court, (Motor Accident Claims Tribunal), Chennai. She filed the said claim petition, claiming a sum of Rs.35,00,000/- as compensation for the injuries sustained by her in the accident that took place on 23.05.2006.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to negligence on the part of the 1st respondent, driver-cum-owner of the Santro Car and directed the 2nd respondent as insurer of the vehicle to pay a sum of Rs.8,31,000/- as compensation to the appellant.

4.Not being satisfied with the amounts awarded by the Tribunal by the award dated 18.08.2011, made in M.C.O.P. No. 2495 of 2006, the appellant has come out with the present appeal.

5.Learned counsel appearing for the appellant contended that due to the accident, she sustained injuries like communitated fracture of right humerus and right ulna, undisplaced calcaneum fracture left side and she has taken treatment at Apollo Hospital, Chennai, from 24.05.2006 to 02.06.2006 and then subsequently took treatment at Malar Hospital, Chennai from 05.07.2006. She has undergone two surgeries. P.W.2 - Doctor assessed the percentage of disability suffered by the appellant as 60% and issued Ex.P13 - disability certificate to that effect. The compensation granted by the Tribunal towards transportation expenses, damage to clothes, extra nourishment, medical expenses, future medical expenses and loss of amenities are meagre. The Tribunal ought to have adopted multiplier method in awarding compensation towards disability. Due to the injuries sustained in the accident, she was forced to resign her job in which she was earning a sum of Rs.40,000/- per month. The Tribunal has not awarded any amount towards mental agony, attendant charges and compensation for marriage prospects and prayed for enhancement of the compensation.

6.Learned counsel appearing for the 2nd respondent made submissions in support of the award passed by the Tribunal and prayed for dismissal of the appeal.

7.Heard the learned counsel appearing for the appellant as well as the 2nd respondent and perused the materials available on record.

8.It is the contention of the appellant that at the time of accident, she was working as a Communication Trainee in Sutherland Global Services and was earning a sum of Rs.40,000/- per month. Due to the injuries sustained in the accident, she has suffered injuries. From the materials on

record, it is seen that due to the injuries sustained in the accident, the appellant has not totally lost her earning capacity and she has failed to prove that she suffered functional disability. Hence, she is not entitled to any compensation by adopting multiplier method. However, considering the nature of injuries, the Tribunal has granted a sum of Rs.1,50,000/- towards loss of earning capacity. P.W.2-Doctor has assessed that she suffered 60% disability and issued disability certificate to that effect, which is marked as Ex.P13. The Tribunal considering the materials on record, granted compensation under the head disability at the rate of Rs.2,000/- per percentage for 60% disability. The Tribunal has granted compensation towards loss of earning capacity, in addition to compensation towards disability. In view of the same, the appellant is not entitled for any enhancement of the compensation granted by the Tribunal. The Tribunal has considered all the materials on record in proper perspective and awarded compensation under different heads, which are not meagre. Hence, there is no error in the said award of the Tribunal, warranting interference by this Court.

9. In the result, this Civil Miscellaneous Appeal is dismissed and amount of Rs.8,31,000/- awarded by the Tribunal along with interest and costs is confirmed. The 2nd respondent-Insurance Company is directed to deposit the award amount 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, to the credit of M.C.O.P. No. 2495 of 2006. On such deposit, the appellant is permitted to withdraw the award amount, along with interest and costs, less the amount already withdrawn if any, by filing necessary applications before the Tribunal. No costs.

Sd/-
Assistant Registrar (CCC)

//True Copy// सत्यमेव जयते
Sub Assistant Registrar

gsa

To

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

WEB COPY

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

+1cc to Mr.N.Somasundar, Advocate, S.R.No.23069
+1cc to Mrs.M.Malar, Advocate, S.R.No.23450

C.M.A. No. 3738 of 2013

GMR(CO)
CB(26/08/2020)



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