

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.3773 of 2013

S.Kuppu @ Kuppammal

.. Appellant/Petitioner

Vs.

1.P.Ramesh

(Set exparte in the Trial Court)

2.The New India Assurance Co.Ltd.,

Motor Third Party Claims Cell,

No.45, Moore Street,

Chennai 600 001

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 17.06.2013 made in M.A.C.T.O.P.No.3629 of 2012 on the file of Motor Accident Claims Tribunal, III Court of Small Causes, Chennai.

For Appellant : Mrs.P.T.Salim Fathima

For Respondents : Mr.M.Krishnamoorthy for R2

: R1 Exparte

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 17.06.2013 made in M.A.C.T.O.P.No.3629 of 2012 on the file of Motor Accident Claims Tribunal, III Court of Small Causes, Chennai.

2.The appellant is the claimant in M.A.C.T.O.P.No.3629 of 2012 on the file of Motor Accident Claims Tribunal, III Court of Small Causes, Chennai. She filed the said claim petition claiming a sum of Rs.9,00,000/-as compensation for the injuries sustained by her in the accident that took place on 03.06.2012.

3.The case of the appellant is that on 03.06.2012 at about 20.05 hours, while the petitioner was walking along E.C.R.Road opposite to Rajiv Fandhi Nagar, 1st street on the eastern side of the road, a car bearing Regn. No.PY-01-AN-9192 was driven by its driver in a rash and negligent manner from north to south and came to the extreme eastern side of the road and dashed against the petitioner. Due to the said incident, the petitioner sustained grievous injuries.

4.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the car. The first respondent is the owner and the second respondent is the insurance company and directed the second respondent-Insurance Company, on behalf of the first respondent, to pay a sum of Rs.1,01,340/- as 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 Mrs.P.T.Salim Fathima, learned counsel for the appellant and Mr.M.Krishnamoorthy, learned counsel for the second respondent.

6.A perusal of the records shows that the claimant has sustained fractures and injuries all over the body. Dr.Amarnath R Sowlee (PW2) has assessed the partial permanent disability as 15% and the Tribunal has accepted the same and awarded a sum of Rs.30,000/- (Rs.2,000/- per percentage of disability) towards disability. Considering the nature of the injuries sustained by the appellant, this Court is inclined to enhance the same to Rs.45,000/- (Rs.3,000/- X 15%). It is seen from the claim petition that the claimant was working as a cleaner in M/s Kipling & Co., earning a sum of Rs.6,500/- per month and there is no evidence to show her monthly income. Considering her age, ups and downs in the price of commodities, the Tribunal had fixed Rs.4,500/- as notional monthly income of the claimant. As the claimant had sustained fracture of inferior pubic rami right un-displaced, it is difficult for her to squat and climb steps and she would not have been in a position to attend her routine work atleast for two months and therefore, the Tribunal awarded a sum of Rs.9,000/- (Rs.4,500/- x 2 months) towards "loss of income". Considering the nature of injuries sustained by the appellant, this Court feels it proper to asses the loss of income for a period of six months and this Court awards a sum of Rs.27,000/- (Rs.4,500/- X 6 months) towards the same. The

Tribunal has awarded a sum of Rs.5,000/- each towards transportation and Extra Nourishment and the same is enhanced to Rs.10,000/- each. The Tribunal has awarded a sum of Rs.1,000/- towards Damages to clothes and articles, which is proper and the same is confirmed. The Tribunal has awarded a sum of Rs.41,340/- towards medical expenses. The medical bills for the same has also been shown as Ex.P4 and Ex.P5. Hence, this Court is of the view that the amount awarded towards medical expenses is appropriate and the same is confirmed hereby. The Tribunal has awarded a sum of Rs.10,000/- towards pain and sufferings. Considering the nature of injuries and the age of the appellant, this Court is inclined to increase the same and accordingly this Court enhances the same to Rs.20,000/-. 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.	Loss of income	9,000/-	27,000/-	enhanced
2.	Transportation	5,000/-	10,000/-	enhanced
3.	Extra Nourishment	5,000/-	10,000/-	enhanced
4.	Damages to clothing and articles	1,000/-	1,000/-	confirmed
5.	Medical expenses	41,340/-	41,340/-	confirmed
6.	Pain and sufferings	10,000/-	20,000/-	enhanced
7.	Disability	30,000/-	45,000/-	enhanced
	Total	Rs.1,01,340/-	Rs.1,54,340/-	enhanced by Rs.53,000/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,01,340/- is hereby enhanced to Rs.1,54,340/- 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 second respondent-Insurance Company, on behalf of the first 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/claimant 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 MDU)

//True copy//

Sub Assistant Registrar

sbn

To

1. The III Judge,
The III Court of Small Causes,
Motor Accidents Claims Tribunal,
Chennai.

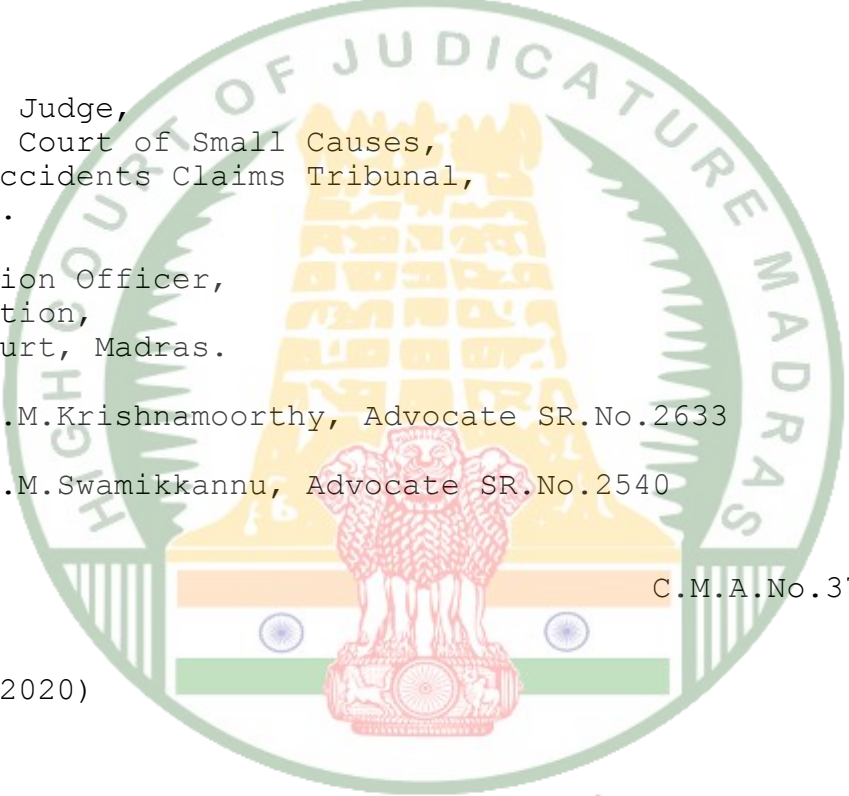
2.The Section Officer,
V.R Section,
High Court, Madras.

+1cc to Mr.M.Krishnamoorthy, Advocate SR.No.2633

+1cc to Mr.M.Swamikkannu, Advocate SR.No.2540

C.M.A.No.3773 of 2014

NMI (CO)
GMY (10/11/2020)



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