

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.NO.564 OF 2016

Parvathi

.. Appellant/Petitioner

Vs.

1. C.Kumar,
(Notice to R1 may be dispensed with)

2. Reliance General Insurance Co.Ltd.
3rd Floor, 408, Perundhurai Road
Erode - 638 011. ..Respondents/Respondents

Prayer:-

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment dated 04.11.2015, made in M.C.O.P. No. 308 of 2014, on the file of Motor Accidents Claims Tribunal Sub Court, Tiruchengode.

For Appellant : Mr.C.Paraneedharan

For Respondents: Mr.S.Arunkumar (for R2)
R1 - Exparte in Lower Court

JUDGMENT

This civil miscellaneous appeal is filed against the judgment and decree dated 04.11.2015 passed in M.C.O.P. No. 308 of 2014.

2. The accident occurred on 03.04.2014 at about 7.00 p.m., Periyamanali to Vaiyappamalai Main Road, Palakkaran Kadu in front of Loku's Power Looms. Elachipalayam police station registered a case in Crime No. 52 of 2014 under Sections 279 and 237 IPC on 06.04.2014.

3. On account of the accident, the appellant/claimant sustained grievous injuries. At the first instance, she had taken treatment in Periyamanali Primary Health Centre, and subsequently, she has taken treatment in Namakkal Head Quarters Government Hospital. She sustained fracture in her left leg knee and she sustained lacerated and cut injuries in her forehead and legs and undergone a surgery also.

4. The Tribunal adjudicated the issue with reference to the nature of injuries as well as the medical records and considering the evidence of the Doctor. The PW2 Doctor was examined on behalf of the claimant side and in his evidence, the Doctor has categorically deposed that for further treatment of the claimant, she may require a sum of Rs. 25,000/-. However, during the cross examination the Doctor categorically deposed that in the Government hospital itself such operation was conducted without any expenses and the Doctor also not stated that it is necessary to take further treatment for the claimant for normal life and the claimant also has not proved by submitting any documentary evidence that further treatment is unavoidable and necessary. The Doctor assessed the disability as 15%. Thus, the Tribunal has granted a sum of Rs. 2,000/- per percentage and accordingly, calculated the compensation.

5. This Court is of the considered opinion that the award of the Tribunal fixing a sum of Rs.2,000/- per percentage is inadequate. The accident occurred in the year 2014 and therefore, the claimant is entitled for a sum of Rs.4,000/- per percentage and therefore, the compensation is to be revised. Accordingly, the total award of compensation of Rs. 1,40,257/- is enhanced as under:-

1. Loss of earning (6000 X 3)	Rs. 18,000/-
2. Transport and Extra nourishment	Rs. 10,000/-
3. Medical expenses	Rs. 96,757/-
4. Pain and suffering	Rs. 25,000/-
5. For permanent disability	Rs. 60,000/-
6. For attender's charges	Rs. 10,000/-
Total	Rs.2,19,757/-

As far as the awarded amount by the Tribunal is concerned, the said amount was deposited and the appellant had already withdrawn the amount full. The respondent /insurance company is directed to deposit the enhanced award amount with interest of 7.5% per annum, within a period of six weeks from the date of receipt of a copy of this judgment and on such deposit, the appellant/claimant is permitted to withdraw the said amount by filing an appropriate application and the payments are to be

made only through RTGS. The appellant/claimant is liable to pay court fee for the enhanced compensation amount.

6. With the above, the judgment and decreed dated 04.11.2015 passed in M.C.O.P.No.308 of 2014 is set aside and accordingly, the Civil Miscellaneous Appeal stands allowed. No costs.

Sd/-
Assistant Registrar(ADI-MDU)

//True Copy//

Sub Assistant Registrar

may

To

1. The Section Officer,
V.R Section, High Court,
Madras.
2. The Sub Judge
Motor Vehicle Accident Claims Tribunal
Tiruchengode.

+2cc to Mr.C.Paraneedharan, Advocate, S.R.No.21281
+1cc to Mr.S.Arunkumar, Advocate, S.R.No.21294

C.M.A.No.564 of 2016

VSNII(CO)
CS/11/09/2020

सत्यमेव जयते

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