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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.10.2020

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

C.M.A.NO.2079 OF 2018

Manimala

... Appellant/
Petitioner

Vs

1. N.Kaliappadulla

2. Reliance General Insurance Co. Ltd.,
"Rai's" Tower, 2nd floor,
Plot No.2054, 2nd Avenue,
Anna Nagar, Chennai - 600 040.

... Respondents/
Respondents

PRAYER:

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment dated 22.06.2017 made in M.C.O.P. No.6346 of 2013 on the file of Motor Accident Claims Tribunal, (II Small Causes Court) Chennai.

For Appellant : Mr.K.Varadha Kamaraj

For Respondent 1 : Exparte

2 : Mr.S.Arun Kumar

JUDGMENT

This appeal is preferred by appellant against the decree and judgment dated 22.06.2017 made in M.C.O.P. No.6346 of 2013 on the file of Motor Accident Claims Tribunal, (II Small Causes Court), Chennai.

2. The appellant/claimant suffered injuries as a result of a motor accident. The Motor Accidents Claims Tribunal fixed the total compensation at Rs.1,99,721.21/- which is rounded off to a sum of Rs.2,00,000/-. The Tribunal has carefully considered the documents filed by the appellant/claimant and accepted the



medical bills for a sum of Rs.88,721.21/-. However, a sum of Rs.90,721.21/- was awarded after adding a sum of Rs.2,000/- for purchasing other consumables. The medical certificate is somewhat confusing. The Tribunal took 25% as disability even though the disability certificate shows that the disability is 40%. The permanent disability was because of malunited left clavicle, plate in situ, and other conditions and similarly, post traumatic headache giddiness was also considered for assessment of disability. The Tribunal did not accept the disability as per the medical report but concluded disability at 25%.

3. This Court is of the view that the disability on account of nature of injury and treatment taken by the appellant has to be fixed at 35%. Therefore, the appellant will be entitled for a sum of Rs.30,000/- in addition to the compensation awarded by the Tribunal. Similarly, the Tribunal has awarded a sum of Rs.12,000/- towards loss of earnings by taking into account a sum of Rs.6,000/- as the monthly income of the appellant. The appellant is not merely a housewife but is a Tailor by profession and hence the loss of earnings should be calculated at least for four months. Therefore, another sum of Rs.12,000/- is required to be added to the compensation fixed by the Tribunal.

4. Accordingly, the award of Tribunal in M.C.O.P. No.6346 of 2013 is modified to the effect that the first and second respondents are liable to pay compensation to the tune of Rs.2,42,000/- along with interest at the rate of 7.5% from the date of claim petition.

5. The Civil Miscellaneous Appeal is allowed to the extent indicated above. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

bkn

To

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



2. The Section Officer,
VR Section, High Court,
Madras-104.

+1cc to Mr.S.Arun Kumar, Advocate, S.R.No.33647

+1cc to Mr.K.Varadha Kamaraj, Advocate, S.R.No.33361

C.M.A.No.2079 of 2018

BR (CO)
CS/23/08/2021