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THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.01.2020

CORAM

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

C.M.A.No.912 of 2018
and
C.M.P.No.14210 of 2019

T.Elizabeth ... Appellant/Petitioner

Vs.

1.M.Govindan
2.M/s.Royal Sundaram Alliance Ins.
Co. Ltd.,
Sundaram Towers,
45 & 46, Whites Road, Chennai - 14.
(R1 set exparte in lower court) ... Respondents/Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the decree and award dated 15.12.2017 in M.C.O.P.No.4251 of 2015 on the file of the Motor Accidents Claims Tribunal (II Court of Small Causes), Chennai.

For Appellant : Ms.Vaijayanthi Baskaran
for Mr.J.Mahalingam

For Respondents : Mr.Elveera Ravindran for R2
R1 - exparte

JUDGMENT

(Delivered by M.M.SUNDRESH, J)

This appeal is preferred by the appellant seeking enhanced compensation pursuant to the accident suffered by the appellant, aged about 36 years, who is a lady working as a Teacher, imparting education to the second standard students and earning a salary of Rs.20,320/- as per Ex.P10 as the Tribunal has awarded only a sum of Rs.1,00,650/-.



2.Learned counsel appearing for the appellant submitted that the disability has been fixed at 50%. The medical bills have not been taken into consideration. The Tribunal has committed a wrong in holding that all the medical bills have been reimbursed. There is no sufficient amount awarded towards pain and suffering. The appellant was treated as inpatient for 37 days. Therefore, the appeal will have to be allowed.

3.Learned counsel appearing for the second respondent submitted that there is no loss of income as such. The appellant continues to work. The Tribunal took into consideration the fact that there was reimbursement though not fully.

4.The appellant did suffer the following injuries:
(i)Crush injury of left leg and foot
(ii)Circumferential degloving injury of left leg and exposing cut tendons and mangled bones
(iii)Deep abrasions over volar aspect of distal forearm
(iv)Laceration volar forearm and distal 3rd multiple laceration over all fingers and other serious multiple injuries all over the body

5.She was also treated as inpatient. From the above, we could see that the injuries suffered are very serious in nature. Though the appellant continues to work after recovery, the permanent disability continues. Thus, we are inclined to fix a sum of Rs.5 lakhs towards disability. Insofar as giving credit to the medical bills are concerned, the Tribunal committed an error in holding that all the bills have been reimbursed what has been reimbursed is a sum of Rs.21,650/- out of Rs.7,86,238/-. Therefore, we are inclined to add a sum of Rs.4,97,738/- towards the medical bills payable. A sum of Rs.50,000/- has been awarded towards pain and suffering. As the appellant is in continuous need for attender, we add a sum of Rs.20,000/- towards it. Further sum of Rs.15,000/- is granted towards transportation charges and Rs.15,000/- towards extra nourishment has been added. Accordingly, we fix a sum of Rs.10,97,738/- and the same is rounded off to Rs.11,00,000/- . The interest awarded by the Tribunal at 9% per annum stands confirmed.

6. In such view of the matter, the Civil Miscellaneous Appeal stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

7.The second respondent insurance company is directed to deposit the enhanced compensation amount awarded by this Court



along with proportionate interest, less the amount if any already deposited, to the credit of M.C.O.P. No.4251 of 2015 on the file of the Motor Accidents Claims Tribunal (II Court of Small Causes), Chennai. within a period of eight weeks from the date of receipt of a copy of the judgment.

8.We also direct the Tribunal to transfer the entire amount deposited by way of RTGS to the bank account of the appellant/claimant within a period of three weeks from the date of deposit of the award amount. On such transfer, the appellant/claimant is entitled to withdraw the same.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mmi

To

The Motor Accidents Claims Tribunal,
II Court of Small Causes, Chennai.

+1cc to M/s.Elveera Ravindran, Advocate, Sr.No.3140
+2cc to Mr.J.Mahalingam, Advocate, Sr.No.3361

C.M.A.No. 912 of 2018

MR(CO)
GS(13/07/2020)