

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2020

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.336 of 2014

M.Chitra

...Appellant/Petitioner

Vs.

1.V.Mahendra

2.Bajaj Allianz GI Insurance Co.Ltd.,  
No.30, 1<sup>st</sup> Avenue, 1<sup>st</sup> Floor,  
Ashok Nagar, Chennai - 600 083.

..Respondents/Respondents

Prayer: Civil Miscellaneous Petitions filed under Section 173 of Motor Vehicle Act, 1988 against the judgement and decree dated 06.02.2013 made in M.C.O.P.No.4981/2011 on the file of the IV Judge, Motor Accidents Claims Tribunal, (Court of Small Causes), Chennai.

For Appellant : Mr.K.Suryanarayanan  
for M/s.Swamikkannu

For Respondents : Mrs.R.Sreevidhya for R2  
R-1 Exparte

JUDGEMENT

This appeal has been filed by the claimants seeking enhancement of compensation under the impugned Award dated 06.02.2013, passed by the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai, in M.C.O.P.No.4981 of 2011.

2. Heard Mr.K.Suryanarayanan for Mr.M.Swamikkannu, learned counsel for the Appellant. Mrs.R.Sreevidhya, learned counsel for the second respondent. The first respondent has remained exparte both before the Tribunal as well as before this Court.

3. The appellant / Claimant unsatisfied with the quantum of compensation awarded by the Tribunal, has preferred this appeal.

4. The appellant / Claimant sustained injuries on 28.09.2011, as a result of an accident caused by a vehicle owned by the first respondent and insured with the second respondent. The Motor Accident Claims Tribunal under the impugned Award has directed the second respondent to pay a compensation of Rs.2,30,400/- to the appellant together with interest and cost as detailed hereunder:

Pecuniary Loss:

|                                                                |                   |
|----------------------------------------------------------------|-------------------|
| Loss of income for three months at the rate of Rs.6,000/- p.m. | -Rs. 18,000/-     |
| Transportation                                                 | -Rs. 5,000/-      |
| Extra nourishment                                              | -Rs. 5,000/-      |
| Medical Expenses                                               | -Rs.1,14,326.45/- |
| Damages to Clothes                                             | -Rs. 1,000/-      |
| Attender Charges                                               | -Rs. 2,000/-      |

Non Pecuniary Loss:

|                                                           |               |
|-----------------------------------------------------------|---------------|
| Pain and Suffering                                        | -Rs. 35,000/- |
| Disability at 25% at the rate of Rs.2000/- per percentage | -Rs. 50,000/- |

Total - Rs.2,30,326.45p

Rounded off to Rs.2,30,400/-

5. Before the Tribunal, the appellant / Claimant has filed eight documents which were marked as Ex.P1 to P8 and two witnesses were examined on her side namely the Appellant / Claimant herself as PW1 and the Doctor, who examined her as PW2. On the side of the respondents neither any document was filed nor any witness examined before the Tribunal.

6. The nature of injuries sustained by the appellant / Claimant has not been disputed by the respondents as seen from the evidence available on record. The Doctor who examined the appellant / Claimant has assessed her disability at 25% which has been accepted by the Tribunal, under the impugned Award. The Tribunal has awarded the disability compensation of Rs.50,000/- calculated at Rs.2,000/- per percentage of disability. The accident having happened in the year 2011, this Court is of the considered view that the disability compensation assessed by the Tribunal is on the lower side and it has to be enhanced. It is

settled practice that when the accident has been taken place in the year 2011, then the compensation has to be fixed at Rs.3,000/- per percentage of disability. Accordingly, the disability compensation awarded to the appellant / claimant is enhanced from Rs.50,000/- to Rs.75,000/- by this Court calculated at Rs.3,000/- per percentage of disability for the 25% disability suffered by the appellant / Claimant.

7. With regard to the quantum of compensation awarded by the Tribunal under various other heads namely transportation, extra nourishment, medical expenses, damages to clothes, attender charges and pain and suffering are concerned, the same is confirmed by this Court as the compensation awarded by the Tribunal under those heads is a just compensation.

8. However, the Tribunal has assessed the notional monthly income of the appellant / claimant at Rs.6,000/-. The appellant / Claimant is a beautician and in her claim petition, she has pleaded that she was earning between Rs.6,500/- to Rs.7,500/- per month at the time of the accident. The accident having happened in the year 2011, this Court is of the considered view that the assessment of the notional income of the appellant / Claimant at Rs.6,000/- per month is low and it has to be enhanced to Rs.6,500/- per month.

9. The Tribunal has awarded a compensation of Rs.18,000/- towards loss of income to the appellant / Claimant during the period of her treatment calculated at Rs.6,000/- per month for a period of three months. Since the notional monthly income of the appellant / Claimant is enhanced to Rs.6,500/- by this Court, the loss of income to the claimant during the period of her treatment is enhanced to Rs.6,500/- x 3 = 19,500/-, which is rounded off to Rs.20,000/- by this Court.

10. The Tribunal has failed to award any compensation towards loss of amenities to the appellant / Claimant which she is legally entitled to as per the settled practice. This Court after giving due consideration to the nature of injuries as well as the age and avocation of the appellant / Claimant is of the considered view that a sum of Rs.10,000/- will be an adequate compensation towards loss of amenities.

11. For the foregoing reasons, the compensation awarded by the Tribunal is enhanced from Rs.2,30,400/- to 2,67,500/-

Pecuniary Loss:

Loss of income for three months at  
the rate of Rs.6,500/- p.m.

(19,500/- is rounded off to Rs.20,000/-)- Rs.20,000/-

Transportation - Rs.5,000/-

Extra nourishment - Rs.5,000/-

Medical Expenses -

Rs.1,14,326.45/-

Damages to Clothes - Rs.1,000/-

Attender Charges - Rs.2,000/-

Amenities - Rs.10,000/-

Non Pecuniary Loss:

Pain and Suffering - Rs.35,000/-

Disability at 25% at the rate of  
Rs.3000/- per percentage - Rs.75,000/-

Total Rs.2,67,326.45p

rounded off to Rs.2,67,500/-

12.In the result, the Appeal is partly allowed by enhancing the compensation from Rs.2,30,400/- to Rs.2,67,500/-. The 2<sup>nd</sup> respondent is directed to deposit the modified award amount of Rs.2,67,500/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realisation, after deducting the amount already deposited if any, to the credit of MCOP No.4981 of 2011 on the file of the Motor Accident Claims Tribunal, Small Causes Court, Chennai, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellant / claimant, through RTGS, within a period of two weeks thereafter. The requisite Court fee, if any shall be paid by the appellant before receiving the copy of this Judgment. No costs.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

pns

To

1.Motor Accident Claims Tribunal,  
Court of Small Causes, Chennai.

2.The Section Officer,  
Vernacular Section,  
Madras High Court.

+1cc to Mr.M.Swamikannu, Advocate, S.R.No.28864

C.M.A.No.336 of 2014

CNR (CO)  
CB (27/05/2021)



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