

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.2922 of 2017

Devi

.. Appellant/Petitioner

Vs.

1.Rasu

2.V.Sumathi

(Notice to R1 and 2 may be dispensed with for the time being for which separate petition is filed herewith)

3.New India Assurance Company Limited,
No.1360, Amman Complex, Mettur Road,
Erode Town and District.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, as amended by Act 54 of 1994 to set aside the order made in M.C.O.P.No.89 of 2010 on the file of the Motor Accident Claims Tribunal Cum Subordinate Court, Bhavani, Erode District dated 12.12.2014 and for enhancement of compensation.

For Appellant : Mr.C.Kulanthaivel

For Respondents: R1 & R2 - Notice dispensed with
R3 - M/s.R.Sreevidhya

JUDGMENT

The civil miscellaneous appeal is filed against the judgment and decree dated 12.12.2014 passed in M.C.O.P.No.89 of 2010.

2. The appeal is filed by the claimant, seeking enhancement.

3. The accident occurred on 06.01.2009. Kavindapady Police registered a case in Crime No.8 of 2009 under Sections 279 & 337 of IPC.

4. The factum regarding the accident was not disputed by the parties. The learned counsel appearing on behalf of the appellant/claimant mainly contended that the Doctor assessed 40% permanent permanent disability, which was accepted by the Tribunal and the quantum of compensation is fixed. However, the Tribunal has not granted an appropriate compensation in commensuration with the disability assessed. The accident occurred in the year 2009 and therefore, the Tribunal ought to have granted at least a sum of Rs.3,000/- per percentage. However, the Tribunal granted a sum of Rs.1,000/- per percentage and therefore, the compensation is inadequate, which requires enhancement. No compensation was granted for loss of income for the period, in which, she was treated.

5. The learned counsel for the appellant informed that she was treated as inpatient for about 55 days and therefore, the Tribunal ought to have granted compensation for loss of income for the period of treatment and for a subsequent period.

6. The learned counsel appearing on behalf of the respondent/Insurance company disputed the issues by stating that the Tribunal considered the nature of the injuries and awarded compensation. Nature of injuries sustained are only partial disability and therefore, there is no reason whatsoever to enhance the compensation awarded by the Tribunal.

7. This Court is of the considered opinion that the award of compensation must be fair and just. The claimant, at the time of accident, was working as Hand loom weaver and was a earning member. She was aged about 29 years. Therefore, the Tribunal ought to have granted compensation for loss of income. This apart, the partial permanent disability caused disability to lead a normal life. Under these circumstances, for disability, the Tribunal ought to have granted a sum of Rs.3,000/- per percentage. For all these reasons, the award of the Motor Accident Claims Tribunal is enhanced as detailed hereunder:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	For disability (40*1000) =40,000/-	40,000/-	For disability (40*3000) =1,20,000/-	Enhanced
2.	Medical and Transport Expenses	65,000/-	65,000/-	Confirmed

3.	Pain and suffering	10,000/-	25,000/-	Enhanced
4.	Loss of Amenities	5,000/-	-	-
5.	Extra nourishment	5,000/-	10,000/-	Enhanced
6.	Loss of Income for the treatment period	-	(6*5000) =30,000/-	Granted
7.	Attendant charges	-	10,000/-	Granted
	Total	1,25,000/-	2,60,000/-	Enhanced by Rs.1,35,000/-

8. The total amount of compensation payable to the appellant/claimant is Rs.2,60,000/- (Rupees Two Lakhs Sixty Thousand only)

9. The learned counsel appearing on behalf of the respondent/Insurance company made a submission that the awarded amount had already been deposited. Thus, the 3rd respondent/Insurance company is directed to deposit the enhanced amount of compensation along with interests at the rate of 7.5% per annum within a period of six (6) weeks from the date of the receipt of a copy of this judgment and on such deposit, the appellant/claimant is permitted to withdraw the entire award amount with accrued interest by filing appropriate application. The Payments are to be made through RTGS. The appellant/claimant is directed to pay Court fee for the enhanced compensation.

10. Accordingly, the judgment and decree dated 12.12.2014 passed in M.C.O.P.No.89 of 2010 is set aside and consequently, C.M.A.No.2922 of 2017 stands allowed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Subordinate Court, Bhavani,
(Motor Accidents Claims Tribunal),
Erode District.

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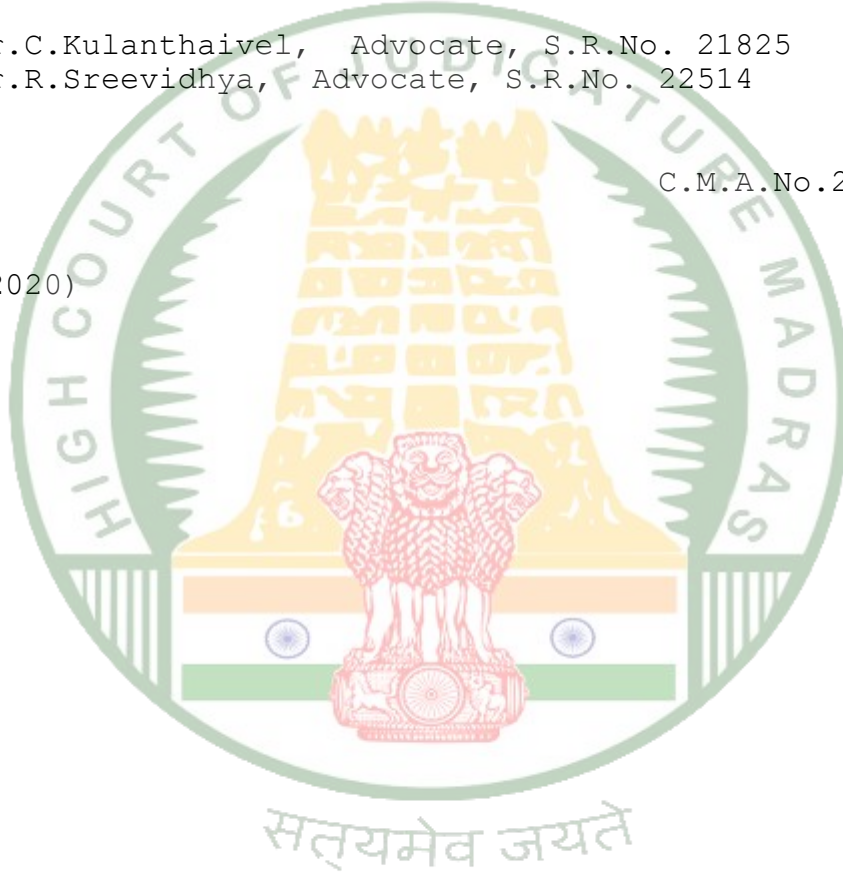
The Section Officer,
V.R Section,
High Court, Madras.

+1cc to Mr.C.Kulanthaivel, Advocate, S.R.No. 21825

+1cc to Mr.R.Sreevidhya, Advocate, S.R.No. 22514

C.M.A.No.2922 of 2017

CA(CO)
GN(16/12/2020)



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