



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 02.12.2020

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

C.M.A(MD)No.1655 of 2008

Mari

... Appellant/Claimant

vs.

1. Kalaiyarasi

2. The Branch Manager,
National Insurance Company Ltd.,
Jerome Building,
Kottai Station Road,
Trichy - 2.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 against the award dated 29.11.2006 passed in MACOP No.192 of 2004 on the file of Motor Accident Claims Tribunal, (Sub Court), Pudukkottai.

For Appellant	: Mr.G.Sridharan
For Respondents	: Mr.N.Murugesan (for R2)
	No appearance for R1

J U D G M E N T

Dissatisfied with the quantum awarded by the Motor Accident Claims Tribunal (Sub-Court), Pudukkottai, in MCOP No.192/2004, the claimant has preferred this appeal seeking enhancement of compensation.

2.Brief facts of the case would run thus:-

This is case of injury. According to the claimant, she was working as 'Sanitary Worker' in the Pudukkottai Municipality. On 04.05.2004, at about 06.10 a.m, she was collecting garbage from the Pudukkottai - Thirumayam road. At that time, a bus bearing registration No.TN-55-J-0259 driven by its driver in a rash and negligent manner, dashed against her. In the accident, she sustained injuries on her left hip and leg and shoulder. Immediately, she was taken to the Government Hospital, Pudukkottai, where she took treatment for 19 days as inpatient.



3.The grievance of the appellant/claimant is that though the Tribunal found that the driver of the offending vehicle bearing registration No.TN-55-J-0259 was responsible for the accident, has awarded lesser compensation. Since there is no dispute with regard to the finding on negligence, it is unnecessary to elaborate on that aspect.

4.Insofar as quantum is concerned, the appellant/claimant, who was examined as P.W.1, stated that she sustained injury on her left hip, leg and shoulder. She further deposed that she took treatment as inpatient at the Government Hospital, Pudukkottai for 19 days. Ex.P.1-First Information Report, Ex.P.4-Wound Certificate corroborate the evidence of P.W.1. However, the Tribunal has awarded Rs.38,200/- as total compensation.

5.It is not in dispute that the claimant herein suffered injury in the accident that had taken place on 04.05.2004 and the medical records show that she was continuously taking treatment for a period of 19 days. Exs.P.5, 6, 9 and 10 are medical records and Exs.P.2 and 8, Discharge Summaries were also produced before the Tribunal.

6.Considering the evidences, this Court finds that the Tribunal has given lesser compensation. Accordingly, this Court is of the opinion that the appellant/claimant is entitled for enhancement of compensation and it has been enhanced from Rs.38,200/- to Rs.69,700/- as follows:-

S1. No.	Heads	Amount awarded by Tribunal (Rs.)	Amount / enhanced / reduced by this Court (Rs.)	Total (Rs.)
1.	For Injury	10,000.00	(+) 15,000.00	25,000.00
2.	For Pain and Suffering	5,000.00	(+) 10,000.00	15,000.00
3.	For Medical Expenses	20,700.00	Nil	20,700.00
4.	For Extra Nourishment	500.00	(+) 1,500.00	2,000.00
5.	For Transportation	500.00	(+) 1,500.00	2,000.00
6.	For Loss of Income	1,500.00	(+) 3,500.00	5,000.00
	Total	38,200.00	(+) 31,500.00	69,700.00



7. The second respondent - Insurance Company is directed to deposit the above modified award amount with accrued interest and costs, less the amount already deposited, before the Tribunal within a period of eight weeks from the date of receipt of a copy of this Judgment. The enhanced amount will carry interest at the rate of 6% per annum. On such deposit, the claimant is permitted to withdraw the award amount, less the amount already withdrawn, if any, together with proportionate interest and costs.

8. For the foregoing reasons, the civil miscellaneous appeal is partly allowed and the Judgment and Decree, dated 29.11.2006, passed in M.C.O.P.No.192 of 2004, by the Motor Accident Claims Tribunal / Sub Court, Pudukkottai, are modified to the extent as indicated above. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

skn

To

The Sub Judge,
Motor Accident Claims Tribunal,
Pudukkottai.

Copy to: The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.(2)

+1cc to Mr.G.Sridharan, Advocate, SR.No.23756.

+1cc to Mr.N.Murugesan, Advocate, SR.No.23779.

JUDGMENT MADE IN
C.M.A(MD)No.1655 of 2008
02.12.2020

SV2(CO)
CS(19.01.2021) 3P 6C