



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.181 of 2021

R.Ramani

.. Appellant / Petitioner

Vs.

1.M/s.Able Marketing Networks,
Padi,
Chennai – 600 050.

2.The New India Assurance Company Limited,
No.F-46, 1st Main Road,
Anna Nagar,
Chennai.

.. Respondents / Respondents

(No relief sought against 1st respondent.
Hence, notice to R1 dispensed with)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 12.09.2019 made in M.C.O.P.No.452 of 2005 on the file of the Motor Accident Claims Tribunal, Sub Court, Poonamallee, Tiruvallur District.

For Appellant : Mr.M.Sivakumar
for Mr.C.Prabakaran

For R2 : Mr.J.Chandran

J U D G M E N T

The matter is heard through "Video Conferencing".

2.This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 12.09.2019



made in M.C.O.P.No.452 of 2005 on the file of the Motor Accident Claims Tribunal, Sub Court, Poonamallee, Tiruvallur District.

3.By consent of both the parties, this Civil Miscellaneous Appeal is taken up for final hearing admission stage itself.

4.The appellant is the claimant in M.C.O.P.No.452 of 2005 on the file of the Motor Accident Claims Tribunal, Sub Court, Poonamallee, Tiruvallur District. She filed the above said claim petition, claiming a sum of Rs.1,00,000/- as compensation for the injuries sustained by her in the accident that took place on 16.06.2005.

5.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent riding by the rider of the motorcycle belonging to the 1st respondent and directed the 2nd respondent-Insurance Company to pay a sum of Rs.20,000/- as compensation to the appellant.

6.Not being satisfied with the amounts awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

7.The learned counsel appearing for the appellant contended that in the accident she sustained a lacerated wound in right knee 12 cm * 3 cm * 3 cm and pain and swelling in right leg. She was admitted in D.R.J. Hospital and subsequently at Kilpauk Medical College Hospital and she spent huge amount towards medical expenses. Therefore, the Tribunal ought to have awarded separate amount towards permanent disability. The appellant has taken treatment in the hospital as inpatient for a week and thereafter as outpatient for one month. But the Tribunal has not awarded any amount towards transportation, extra nourishment, pain and sufferings and attendant charges. The lumpsum amount of Rs.20,000/- awarded by the Tribunal as compensation to the appellant is meagre and prayed for enhancement of compensation.

8.Per contra, the learned counsel appearing for the 2nd respondent contended that the appellant has not produced discharge summary to prove that she has taken treatment as



inpatient. Hence, she is not entitled to any amount towards attendant charges. The injuries sustained by the appellant in the accident are only simple in nature and she has not suffered any disability. Therefore, she is not entitled to any amount towards transportation, extra nourishment and pain and sufferings. The Tribunal considering the entire materials on record, has awarded a sum of Rs.20,000/- as compensation to the appellant, which is not meagre for the simple injuries sustained by her. The appellant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

9. Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the 2nd respondent and perused the entire materials on record.

10. From the materials available on record, it is seen that it is the contention of the appellant that in the accident she sustained a lacerated wound in right knee 12 cm * 3 cm * 3 cm and right leg. She has taken treatment in Kilpauk Medical College Hospital for the injuries sustained by her in the accident that occurred on 16.06.2005. Subsequently, she has continued her treatment as outpatient in D.R.J. Hospital privately and spent considerable amount towards medical expenses and filed claim petition claiming compensation against the respondents. The Tribunal considering the fact that appellant has not appeared before any Medical Board and the injuries sustained by her are only simple in nature, awarded a lumpsum amount of Rs.20,000/- as compensation to the appellant. Considering the entire materials on record, the lumpsum amount of Rs.20,000/- awarded by the Tribunal is meagre and the same is enhanced to Rs.30,000/-. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Lumpsum amount	20,000/-	30,000/-	Enhanced
	Total	Rs.20,000/-	Rs.30,000/-	Enhanced by Rs.10,000/-

11. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at



Rs.20,000/- is hereby enhanced to Rs.30,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The 2nd respondent-Insurance Company is directed to deposit the award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.452 of 2005 on the file of the Motor Accident Claims Tribunal, Sub Court, Poonamallee, Tiruvallur District. On such deposit, the appellant is permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. No costs.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

krk

To

The Motor Accident Claims Tribunal,
The Subordinate Judge,
Poonamallee, Tiruvallur District.

Copy To

The Section Officer,
VR Section, High Court, Madras.

+1cc to M/s.J.Chandran, Advocate, S.R.No.6441

+1cc to M/s.C.Prabakaran, Advocate, S.R.No.6146

C.M.A.No.181 of 2021

RSV(CO)
SB(15/09/2021)