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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2021

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1338 of 2016

C.P.Nijitha Mahalakshmi

...Appellant

Vs

1.M/s.RSB Transmission (I) Ltd.,
D.No.G.23, G.24, SIPCOT Industrial Park,
Katrambakkam, Irugattukottai,
Sriperumbudur,
Kancheepuram District - 602 105
(Was set exparte in the Trial Court)

2.TATA AIG GI.. Insurance Co. Ltd.,
Sampson Towers, 2nd Floor,
No.403-L, Pantheon Road,
Egmore, Chennai - 600 008.

...Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 01.03.2016 made in MACT O.P.No.2775 of 2013 on the file of the II Judge, Motor Accidents Claims Tribunal, (Court of Small Causes), Chennai.

For Appellant : Ms.P.T.Salim Fathima

For Respondents : R1 - Exparte before Tribunal
Mr.E.Rajadurai for R2
for Mr.N.Vijaya Raghavan

J U D G M E N T

This Appeal has been filed by the claimant seeking enhancement of compensation under the impugned Award dated 01.03.2016 passed by the Motor Accident Claims Tribunal, II Court of Small Causes, Chennai in MCOP.No.2775 of 2013.

2.The Appellant/claimant unsatisfied with the quantum of compensation awarded by the Tribunal has preferred this Appeal seeking for enhancement.

3.The details of the compensation awarded by the Tribunal under the impugned Award are as follows:



Particulars	Amount
Transportation, nourishing food and miscellaneous expenditure	Rs.50,000
Medical expenses	Rs.1,21,000
Future medical expenses	Rs.10,000
Attender charges	Rs.10,000
Damages for pain, suffering and trauma	Rs.50,000
Disability	Rs.75,000
Loss occurred to the petitioner on account of the inability to participate dance programme and proper marital alliance	Rs.2,00,000
Loss of amenities	Rs.20,000
Total	Rs.5,36,000/-

4.Heard Ms.P.T.Salim Fathima, learned counsel for the Appellant and Mr.E.Rajadurai, learned counsel for the second respondent. R1 remained ex-parte before the Tribunal, hence notice to R1 is dispensed with.

5.The Appellant/claimant has sustained the following injuries:

(a)Tibia Proximal (L)

(b)Fraceturn involving inter articular tibia, fracture is malunited.

(c) ORIF plate and screws with widening of tibia with condyles, healed painful keloid in left aspect of knee and post traumatic stiffness (L) knee ROM 0-7 deg., as per the disability certificate issued by the Doctor who has examined as PW2.

6.The Doctor who examined the Appellant/claimant has also observed that the Appellant/claimant will have difficulty in driving two and four wheeler due to her limping as a result of injuries sustained by her due to the accident.

7.The Tribunal under the impugned Award has awarded an overall compensation of Rs.5,36,000/- under various heads.

8.This Court is of the considered view that excepting for granting a lesser compensation of Rs.10,000/- towards future medical expenses, the overall compensation awarded by the Tribunal is a just compensation. Insofar as the future medical expenses is concerned and after giving due consideration to the fact that the Appellant/claimant will have difficulty in driving two and four wheeler as a result of the injuries sustained by her, the same will have to be enhanced to Rs.30,000/- from



Rs.10,000/- fixed by the Tribunal. Excepting for this modification, there is no scope for any interference with regard to the compensation awarded by the Tribunal under various other heads.

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9. For the foregoing reasons, the compensation awarded by the Tribunal under the impugned Award is enhanced to Rs.5,56,000/- instead of Rs.5,36,000/- fixed by the Tribunal as detailed hereunder:

Particulars	Award Amount	Enhanced/ modified amount
Transportation, nourishing food and miscellaneous expenditure	Rs.50,000	Rs.50,000
Medical expenses	Rs.1,21,000	Rs.1,21,000
Future medical expenses	Rs.10,000	Rs.30,000
Attender charges	Rs.10,000	Rs.10,000
Damages for pain, suffering and trauma	Rs.50,000	Rs.50,000
Disability	Rs.75,000	Rs.75,000
Loss occurred to the petitioner on account of the inability to participate dance programme and proper marital alliance	Rs.2,00,000	Rs.2,00,000
Loss of amenities	Rs.20,000	Rs.20,000
Total	Rs.5,36,000/-	Rs.5,56,000/-

10. In the result, the appeal is partly allowed. The second respondent Insurance Company is directed to deposit the modified amount awarded by this Court together with interest at the rate of 7.5% per annum from the date of claim till the date of deposit after deducting the amount already deposited if any to the credit of MCOP.No.2775 of 2013 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal shall transfer the amount lying to the credit of MCOP.No.2775 of 2013 to the bank account of the Appellant through RTGS within a period of one week thereafter. No costs.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

pam



To

1.The II Judge,
Motor Accidents Claims Tribunal,
(Court of Small Causes),
Chennai.

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

+1cc to M/s.Jayaraman & Associates, Advocate SR.No.24822

+1cc to M/s.M.Swamikkannu, Advocate SR.No.24593

C.M.A.No.1338 of 2016

CNR(CO)
RVM(02/11/2021)