



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2021

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

CMA No.2146 of 2016

R. Jansi Rani

...Appellant/Petitioner

Versus

1. K.Praveen

2. M/s.S.J.B. Automobiles Pvt. Ltd.,
No.313/1H1, Gangapuram,
Malumichampatti,
Coimbatore Industrial Estate,
Coimbatore - 641 021.

3. ICICI General Insurance Co. Ltd.,
Vignesh Cresia,
1095, Avinashi Road,
Pappanaickenpalayam,
Coimbatore - 641 307.

4. The New India Assurance Co. Ltd.,
1st Floor,
Amman Complex,
1360, E.V.N. Road,
Erode - 638 011.

... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, seeking enhancement of compensation amount awarded in the Award and order dated 08.03.2016 made in M.C.O.P. No.552 of 2013 on the file of the Motor Accident Claims Tribunal (Special Subordinate Judge Court), Erode.

For Appellant : Mr.R. Prabakar
for M/s.C.E. Pratap

For Respondents : R1 - Left
R2 - Address not available
Mrs.R.Sreevidhya for R3
Ms.C. Sangamithrai for R4



JUDGMENT

(Heard Video Conference)

WEB COPY

This appeal has been filed by the claimant seeking enhancement of compensation under the impugned award dated 08.03.2016 passed by the Motor Accidents Claims Tribunal, Special Subordinate Judge Court, Erode, in MCOP No.552 of 2013.

2. The appellant / claimant unsatisfied with the quantum of compensation awarded by the Tribunal under the impugned award has preferred this appeal seeking for enhancement.

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

Heads	Amount awarded by the Tribunal (Rs.)
Transport to hospital and native	5,000
Extra nourishment	10,000
Damages for clothing and articles (Scooty damaged)	500
Doctor fees, hospital charges medical expenses, attender charges, food, loss of medical leave etc.,	87,350
Compensation for pain and suffering for ugliness of right hand and deformity	2,00,000
Compensation for continuing permanent disability and earning power	4,75,000
Total	7,77,850

4. Heard Mr.R. Prabakar, learned counsel for the appellant / claimant; Mrs.R. Sreevidhya, learned counsel for the 3rd respondent and Ms.C. Sangamithirai, learned counsel for the 4th respondent.

5. This Court has perused and examined the impugned award before the Tribunal.

6. The appellant / claimant has sustained the following injuries on 12.02.2012 as a result of an accident caused by a



vehicle owned by the second respondent and insured with the third respondent / Insurance Company. The 4th respondent is a formal party who was the insurer of the appellant / claimant vehicle, in which she was the rider :

- 1) Right upper limb - degloving of skin from elbow to wrist level
- 2) Fracture of Tibia and Fibula bones.

7. The third respondent / Insurance Company has not disputed the findings of the Tribunal that it is only the vehicle which has been insured with them is responsible for the cause of the accident. Hence, the only issue involved in this appeal is whether the quantum of compensation awarded to the appellant / claimant is a just compensation or not and whether it requires any enhancement.

8. The appellant / claimant was a Branch Manager in City Union Bank. With regard to the compensation determined by the Tribunal for assessment of permanent disability and earning power at Rs.4,75,000/- is concerned, the learned counsel for the appellant / claimant has not raised any serious objection. This Court is also of the considered view that the Tribunal has rightly assessed the same after giving due consideration to the avocation and the nature of injuries sustained by the appellant / claimant as well as the salary certificate which was marked as Ex.P26 before the Tribunal.

9. The learned counsel for the appellant / claimant would submit that the appellant / claimant is mainly aggrieved by the quantum of compensation fixed by the Tribunal under the heads a) transportation, b) extra nourishment. He would also submit that the Tribunal erroneously failed to award any compensation towards attender charges and loss of amenities.

10. The accident happened in the year 2012 and the appellant / claimant admittedly being a Branch Manager of City Union Bank at that time, the Tribunal ought to have awarded a higher compensation towards the aforementioned heads as rightly contended by the learned counsel for the appellant / claimant. The appellant / claimant has sustained crush injuries in his right hand, damaging her fingers badly. Thus, the appellant / claimant would have certainly visited the hospital for taking treatment on a number of occasions. He would also require proper nourishment during the period of her treatment. However, the Tribunal has erroneously awarded a lesser compensation towards transportation, extra nourishment and damage to clothing. This Court is of the considered view that the compensation awarded by the Tribunal towards transportation has to be enhanced from Rs.5,000/- to Rs.15,000/-; extra nourishment from Rs.10,000/- to Rs.15,000/- and damage to clothing and



articles from Rs.500/- to Rs.1,000/-, after giving due consideration to the nature of injuries sustained by the appellant/ claimant. Accordingly, the compensation under the heads viz., transportation, extra nourishment and damage to clothing and articles are enhanced by this Court, as stated supra.

11. The Tribunal has erroneously failed to award any compensation towards loss of amenities which the appellant / claimant is legally entitled to as per the settled law. This Court after giving due consideration to the avocation and the nature of injuries sustained by the appellant / claimant awards a compensation of Rs.10,000/- towards loss of amenities.

12. Excepting for the afore mentioned modifications to the impugned award, the compensation awarded by the Tribunal under various other heads remain unaltered.

13. For the foregoing reasons, the award of the Tribunal is hereby enhanced in the following manner :

Heads	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
Transportation	5,000	15,000
Extra nourishment	10,000	15,000
Damages for clothing and articles (Scooty damaged)	500	1,000
Doctor fees, hospital charges medical expenses, attender charges, food, loss of medical leave etc.,	87,350	87,350
Compensation for pain and suffering	2,00,000	2,00,000
Compensation for continuing permanent disability and earning power	4,75,000	4,75,000
Loss of amenities	-	10,000
Total	7,77,850	8,03,350

14. In the result, the appeal filed by the appellant / claimant, stands partly allowed by enhancing the compensation from Rs.7,77,850/- to Rs.8,03,350/-, as indicated above. No costs.



15. The third respondent / Insurance Company is directed to deposit the entire award amount as assessed by this Court together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of M.C.O.P. No.552 of 2013 on the file of the Motor Accident Claims Tribunal (Special Subordinate Judge Court), Erode, within a period of eight 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. Necessary Court fee, if any has to be paid by the appellant / claimant before receiving the copy of this Judgment.

Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

Vsi2

To

1. The Special Subordinate Judge,
(Motor Accident Claims Tribunal)
Erode.

2. The Section Officer,
V.R. Section
High Court of Madras,
Chennai - 104.

+1cc to Mr.C.E.Pratap, Advoctae Sr.30427
+1cc to Mrs.C.Sangamithirai, Advocate Sr.30349
+1cc to Mrs.R.Sree Vidya, Advocate Sr.30478

CMA No.2146 of 2016

pa[col]
srg 22/10/2021