



,IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE S. VAIDYANATHAN

C.M.A.No.2089 of 2021

R. Indirani

...Appellant/Petitioner

Vs.

1. Kathari Vajaramma

2. M/s.National Insurance Co.Ltd.,
C/o.Motor III Party Claims Office
No.752, Anna Salai
Chennai 600 002.

...Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 23.07.2020 made in M.C.O.P.No.2023 of 2014 on the file of Motor Accidents Claims Tribunal, II Judge, Small Causes Court at Chennai.

For Appellant : Mr.T.G.Balachandran

For Respondents : Mr.N.B.Surekha for R2

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 23.07.2020 made in M.C.O.P.No.2023 of 2014 on the file of Motor Accidents Claims Tribunal, II Judge, Small Causes Court at Chennai.

2. The appellant is the claimant in M.C.O.P.No.2023 of 2014 on the file of Motor Accidents Claims Tribunal, II Judge, Small Causes Court at Chennai. She filed the above said claim petition, claiming a sum of Rs.6,00,000/- as compensation for the injuries sustained by her in the accident that took place on 19.01.2014.

3. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the Splendor Motorcycle belonging to the first respondent and directed the



second respondent-Insurance Company to pay a sum of Rs.1,20,200/- as compensation to the appellant.

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

5. The learned counsel appearing for the appellant contended that the P.W.2/Doctor assessed the percentage of disability suffered by the appellant at 25% but the Tribunal reduced the same to 10% on the ground that PW2 is not the Doctor who treated the appellant and the percentage of disability assessed by P.W.2/Doctor is on the higher side. The compensation awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

6. Per contra, the learned counsel appearing for the second respondent-Insurance Company contended that the Tribunal rightly reduced the percentage of disability suffered by the appellant from 25% to 10% on the ground that assessment of disability by P.W.2/Doctor is not the Doctor, who treated the claimant. The amounts awarded by the Tribunal under different heads are not meager and prayed for dismissal of the appeal.

7. Heard the learned counsel appearing for the appellant as well as the second respondent and perused the entire materials on record.

8. From the materials on record it is seen that the claimant suffered injuries in a road accident that took place on 19.01.2014. The claimant sustained fracture of both bone left leg, abrasion of right knee & ankle and head injury. Thereafter, she was treated as in-patient in the Government General Hospital at Chennai from 19.01.2014 to 29.01.2014. The claimant subsequently discharged from the hospital against the medical advice. PW2 is the Doctor who assessed the disability at 25%. Admittedly, he is not the Doctor, who treated the claimant, however the Tribunal has taken the disability at 10% and awarded compensation. Ex.P.2 discharge summary from the Government General Hospital clearly shows that the claimant suffered "laceration in parietal region, laceration in left lower limb and both bone fracture left leg". It is the contention of the appellant that the Tribunal ought to have applied multiplier method and even going by percentage method a sum of Rs.4,000/- per percentage should have been taken for the purpose of awarding compensation. Except the fracture of both bone left leg, other injuries cannot be treated as major injuries, however



the Tribunal should have taken 25% as partial and permanent disability and granted relief. Due to the injuries and disability, the appellant would not have attended his work atleast for a period of four months. The compensation awarded by the Tribunal towards loss of income is modified to Rs.60,000/- [Rs.15,000/- X 4]. The appellant has taken treatment in the hospital as in-patient from 11.10.2008 to 19.10.2008 and the Tribunal has awarded a sum of Rs.2,200/- towards attendant charges, which is meager and the same is hereby enhanced to Rs.15,000/-. The compensation awarded by the Tribunal under other heads are very meagre. 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.	Disability	30,000/-	75,000/-	Enhanced
2.	Pain and sufferings	15,000/-	25,000/-	Enhanced
3.	Loss of income	30,000/-	60,000/-	Enhanced
4.	Transportation	12,000/-	12,000/-	Confirmed
5.	Extra nourishment	5,000/-	10,000/-	Enhanced
6.	Attendant charges	2,200/-	15,000/-	Enhanced
7.	Loss of amenities	10,000/-	15,000/-	Enhanced
8.	Medical expenses	10,000/-	10,000/-	Confirmed
9.	Future medical expenses	5,000/-	5,000/-	Confirmed
10.	Damages to clothes	1,000/-	1,000/-	Confirmed
	Total	Rs.1,20,200/-	Rs.2,28,000/-	enhanced by Rs.1,07,800/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,20,200/- is hereby enhanced to Rs.2,28,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The second respondent-Insurance Company is directed to deposit the enhanced award amount now determined by this Court together 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. On



such deposit, the appellant is permitted to withdraw the enhanced award amount, along with interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. The appellant is directed to pay the Court fee, if any for the enhanced award amount now determined by this Court. No costs.

Sd/-

Assistant Registrar(CS-VIII)

//True copy//

Sub Assistant Registrar

dpq

To

1.The II Judge

Court of Small Causes,
Chennai

2. The Section Officer

VR Section

High Court, Madras 104.

+1 CC to M/s.N.B. Surekha, Advocate sr 44119.

C.M.A.No.2089 of 2021

SR(CO)

SP(15/02/2022)