



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2021

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No. 1616 of 2021

S.Sowmiya

...Appellant/Petitioner

Versus

1. V.Kumar
2. TATA AIG General Insurance Co.Ltd.,
Samson Towers, 403, L, Pantheon Road,
Egmore, Chennai-600008

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 to enhance the compensation awarded in the judgement and decree dated 25.06.2019 passed in M.C.O.P. No.1338 of 2014 on the file of Motor Accidents Claims Tribunal (III Small Causes Court), Chennai.

For Appellant : Mr.K.Varadhakamaraj

For Respondents : Mr.E.Rajadurai
For M/s.M.B. Gopalan Associates -R2
R1 - vacated.

JUDGMENT

(Heard video conference)

This appeal has been filed by the claimant seeking enhancement of compensation under the impugned award dated 25.06.2019 passed by the Motor Accident Claims Tribunal (III Small Causes Court), Chennai in M.C.O.P. No.1338 of 2014.

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 :



WEB COPY

Heads	Amount awarded by the Tribunal (Rs.)
Disability	45,000
Pain and Sufferings	20,000
Transport and Extra Nourishment	20,000
Attender Charges	5,100
Damages to clothes	1,000
Medical Expenses	10,412.50
Total	1,01,512.50

4. Heard Mr. K.Varadhakamaraj, learned counsel for the appellant / claimant and Mr.E.Rajadurai, learned counsel for the respondent / Insurance Company.

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

6. The appellant/claimant has sustained both bone fracture in the left leg and he was 19 years old student, doing B.Tech 1st year when the accident happened on 26.01.2014. The cause of the accident and the nature of injuries sustained by the appellant/claimant have not been disputed by the respondents as no appeal has been filed by the respondents aggrieved by the award passed by the tribunal.

7. The Medical Board which has examined the appellant/claimant has assessed her disability at 15% which has been accepted by the tribunal. This Court is in agreement with the said assessment. However, the tribunal has not taken into consideration the year of the accident for the purpose of assessing the disability compensation. The tribunal has awarded disability compensation at Rs.45,000/- for the 15% disability suffered by the appellant/claimant by fixing Rs.3,000/- per percentage of disability. After giving due consideration of the year of the accident, which happened in the year 2014, this Court enhances the compensation towards disability at Rs.60,000/- by taking Rs.4,000/- per percentage for the 15% disability suffered by the appellant/claimant, instead of Rs.45,000/- erroneously fixed by the tribunal.

8. The compensation awarded by the tribunal under other heads viz., Pain and Suffering, Extra Nourishment and Attendant Charges are also low and it has to be enhanced. After giving due consideration of the nature of injury and the treatment



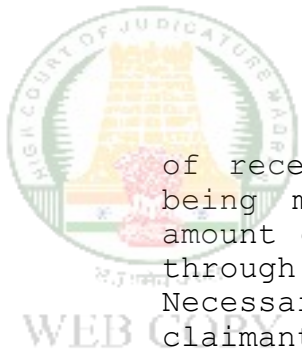
taken by the claimant, this Court enhances the compensation towards (i). Pain and Suffering at Rs.25,000/-, (ii) Extra Nourishment and transport Rs.30,000/- and (iii). Attendant Charges at Rs.15,000/-. Insofar as the compensation awarded by the tribunal towards 'Damages to clothes and medical expenses are concerned, which are supported by medical records, marked as Ex.5 before the tribunal, this Court confirms the same as it is in agreement with the settled practice. However the tribunal has failed to award any compensation towards 'Loss of amenities of life' to the appellant/claimant which she is legally entitled to. Hence, this Court, after due consideration of nature of injuries suffered by the appellant/claimant, awards compensation of Rs.25,000/- towards 'Loss of Amenities'.

9. For the foregoing reasons, the compensation awarded by the tribunal at Rs.1,01,512.50/- is enhanced to Rs.1,66,412.50, rounded off to Rs.1,66,415/- as detailed hereunder;

Heads	Amount awarded by the Tribunal (Rs.)	Amount modified by this Court (Rs.)
15% disability	45,000 (15 x 3000)	60,000 (15 x 4000)
Pain and suffering	20,000	25,000
Extra Nourishment and Transport	20,000	30,000
Attender Charges	5,100	15,000
Damage to clothes	1,000	1,000
Medical Expenses	10,412.50	10,412.50
Loss of amenities of life	...	25,000
Total	1,01,512.50	1,66,412.50 (rounded off to Rs.1,66,415/-)

10. In the result, the appeal filed by the appellant / claimant, stands partly allowed by enhancing the compensation from Rs.1,01,512.50 to Rs.1,66,415/-, as indicated above. No costs.

11. The second 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 MCOP No. 1338 of 2014 on the file of the Motor Accidents Claims Tribunal (III Small Causes Court), Chennai, within a period of eight weeks from the date



of receipt of a copy of this Judgment. On such deposit is 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/-
Assistant Registrar

True Copy//

Sub Assistant Registrar

ak

To

1. The III Judge,
Court of Small Causes (Motor Accidents Claims Tribunal)
Chennai
2. The Section Officer,
V.R. Section, High Court of Madras,
Chennai - 104.

+1cc to Mr. K.Varadhakamaraj, Advocate, S.R.No.48913

C.M.A.No.1616 of 2021

VG-II[co]
NSK 30/11/2021