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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.1370 of 2020

Priya .. Appellant/ Claimant
Vs.

1. Suresh

2. The National Insurance Co., Ltd.,
DO X, 803a, 8th Floor, Tower C, Konnectus Building,
Opp: New Delhi Railway Station, Bhavbhuti Marg,
New Delhi -110 002.
Branch at 73, Perundurai Road, Near Collector Office,
Post Box No.911, Erode District-638 011.

3. Bhawarlal .. Respondents/ Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 03.02.2020 made in M.C.O.P.No.310 of 2017 on the file of the Motor Accident Claims Tribunal/Special Subordinate Judge Court, Erode.

For Appellant : Mr.C.Paraneedharan

For Respondents: Ms.N.B.Surekha (R2)
R.Prabakar (R1 and R3)

JUDGMENT

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 03.02.2020 made in M.C.O.P.No.310 of 2017 on the file of the Motor Accident Claims Tribunal/Special Subordinate Judge Court, Erode.

2.The appellant is the claimant in M.C.O.P.No.310 of 2017 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge Court, Erode. She filed the above said claim petition, claiming a sum of Rs.10,00,000/- as compensation on account of the injuries sustained by her in the accident that took place on 14.05.2016.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to



rash and negligent driving by the rider of the Maestro Deluxe Two Wheeler motorcycle who is the third respondent herein and directed the 2nd respondent-Insurance Company to pay a sum of Rs.1,99,000/- as compensation to the appellant.

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4. Not being satisfied with the amounts 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 Appellant/Claimant was admitted in LKM Hospital at Erode and taken treatment as inpatient from 14.05.2016 to 19.05.2016 (6 days) and during the treatment period she underwent surgery and after being discharged she could not do her work as before and still going to hospital for further treatment and medical checkup. It is further submitted that she spent a sum of Rs.59,420/- towards medical expenses and to prove the same Ex.P7-Medical Bills and Ex.P8- Discharge summary were also marked, but the Claims Tribunal without considering the same has awarded a sum of Rs.60,000/- towards medical expenses which is very low and further no compensation is awarded towards future medical expenses. He further submitted that amount of compensation awarded towards other heads are also very low and hence prayed for enhancement of compensation.

6. The learned counsel appearing for the 2nd respondent-Insurance Company submitted that the Claims Tribunal on considering Ex.P8-Medical Bills has awarded a sum of Rs.60,000/- towards Medical Expenses, which is not meager. He further submitted that the Claims Tribunal on considering both oral and documentary evidence has rightly awarded compensation to the appellant/claimant and therefore no enhancement is required.

7. Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the 2nd respondent-Insurance Company and perused the entire materials on record.

8. It is the case of the appellant that appellant/claimant was admitted in LKM Hospital at Erode and she has taken treatment as inpatient from 14.05.2016 to 19.05.2016 (6 days) and during the treatment period she underwent surgery and after being discharged she could not do her work as before and still going to hospital for further treatment and medical checkup. In the discharge summary it is stated that the 'Post Operative Period uneventful'. Considering the nature of injuries sustained by the claimant and on a perusal of the discharge summary, the Court is of the view that the compensation can be awarded towards Future Medical expenses and accordingly a sum of Rs.25,000/- is awarded towards future medical expenses.

9. Considering the nature of injuries sustained, period of



treatment undergone this Court is of the view that the compensation towards Permanent Disability and Loss of Earning Power can be enhanced. Accordingly, the compensation towards Permanent Disability and Loss of Earning Power is enhanced to Rs.35,000/-/

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10. The amounts awarded by the Tribunal under other heads are just and reasonable and hence, the same are hereby confirmed. 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.	Loss of Earnings	45,000/-	45,000/-	Confirmed
2.	Transport to Hospital	5,000/-	5,000/-	Confirmed
3.	Extra nourishment	6,000/-	6,000/-	Confirmed
4.	Attender charges	6,000/-	6,000/-	Confirmed
5.	Future Medical Expenses	Nil	25,000/-	Granted
6.	Damages for clothes and articles	2,000/-	2,000/-	Confirmed
7.	Medical Expenses	60,000/-	60,000/-	Confirmed
8.	Pain and sufferings	60,000/-	60,000/-	Confirmed
9.	Permanent Disability and Loss of Earning Power	15,000/-	35,000/-	Enhanced
	Total	Rs.1,99,000/-	Rs.2,44,000/-	Enhanced by Rs.45,000/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,99,000/- is hereby enhanced to Rs.2,44,000/- 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 eight weeks from the date



of receipt of a copy of this judgment to the credit of M.C.O.P.No.310 of 2017 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge Court, Erode. 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. The appellant/claimant shall pay necessary Court fee, if any, on the enhanced compensation. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

arr

To

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

+1CC to M/s.N.B.Surekha, Advocate, Sr.No.39049

C.M.A.No.1370 of 2020

NR(CO)
SB(15/11/2021)