



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

CMA.No.1878 of 2020

(Through Video Conferencing)

Sumathi

... Appellant/Petitioner

Vs.

1. R.Venkatesan
2. National Insurance Co.Ltd.,
Motor Third Party Cell,
No.751, Anna Salai,
3rd Floor,
Chennai-600 002.

...Respondents/ Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the decree and Judgment dated 08.11.2019 made in MCOP.No.1525 of 2015, on the file of the Motor Accidents Claims Tribunal, (Special Sub Court No.1), Small Causes Court, Chennai.

For Appellant : Mr.K.Varadhakamaraj

For Respondents :

For R1 : No appearance

For R2 : Mr.P.Sankaranarayanan

JUDGMENT

This appeal has been filed by the claimant/appellant. In this appeal, the claimant/appellant has sought for enhancement of the compensation on the ground that the Tribunal has not considered the very low income of the appellant at Rs.6,000/- per month and awarded a total compensation of Rs.10,87,350/- vide impugned judgment and decree in MCOP.No.1525 of 2015.

2. The case of the appellant is that the accident is of the year 2014. She has claimed that she was working as a coolie and was earning a sum of Rs.350/- per day at the time of accident.

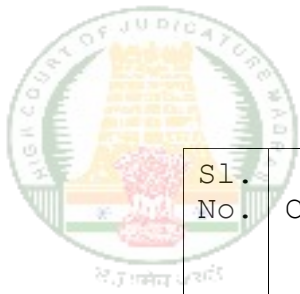


Therefore, on an average sum of Rs.9,000/- per month ought to have been fixed as her monthly income. It is stated that PW2 has assessed the disability at 75% and the appellant has deposed that after injury, her hands have been paralysed and she is also facing difficulty in walking or using legs and she lost control of urine and hence, tube bag has been fixed and totally she was bedridden. Further, it is stated that the Medical Board has also certified that the disability sustained by the claimant is at 75%. Therefore, she prays for enhancement of the compensation.

3. On the other hand, the learned counsel appearing for the second respondent/insurance company submits that the claimant/appellant has sustained C5-C6 subluxation with quadriparesis. It is only temporary in nature. Therefore, the tribunal ought not to have awarded compensation by adopting multiplier method. He further submits that even though, the amount of compensation has been arrived by adopting multiplier. the tribunal ought to have considered the functional disability for awarding compensation.

4. Heard the learned counsel for the claimant and respondent/insurance company and perused the impugned judgement and decree passed by the Motor Accident Claims Tribunal.

5. In my view, the tribunal has considered a very low income of Rs.6,000/- per month while awarding the compensation towards pecuniary loss. In my view, the tribunal ought to have awarded separately the amount towards future prospects.. It should have computed the compensation towards pecuniary loss by adopting multiplier on a slightly higher notional income and adding future prospects at 40% and also considering that the appellant was 35 years at the time of accident. The fact that the appellant suffers C5-C6 subluxation with quadriparesis has not been disputed by the respondent/insurance company. Considering the above, there shall be enhancement compensation. The notional income of the appellant is fixed at Rs.9,000/- per month. There shall be a further addition of 40% towards future prospects. Thus, for the purpose of compensation towards pecuniary loss, the amount to be considered for awarding compensation is at Rs.12,600/- (Rs.9,000/- + Rs.3,600/-) . Thus, the total loss of income of the appellant/claimant together with the future prospects is $\text{Rs.12,600/-} \times 12 = \text{Rs.1,51,200/-}$. At 75% disability, the loss of income per annum is arrived at Rs.1,13,400/- . Since the age of the appellant is 35 years, the correct multiplier to adopt is 16. Thus, the pecuniary loss is arrived at $\text{Rs.1,13,400} \times 16 = \text{Rs.18,14,400/-}$. Accordingly, the compensation payable payable to the appellant is re-computed as follows:-



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Sl. No.	Heads of Compensation	Amount Awarded by the Tribunal	Amount awarded by this Court	Award confirmed or enhanced or reduced or granted or set aside
1.	Pecuniary Loss	Rs.8,64,000/- (6000x12x16x75%)	Rs.18,14,400 (Rs.9000x40%) Rs.9000+3600) 12,600x12x16x75%	Enhanced
2.	Pain and Sufferings	Rs.40,000/-	Rs.40,000/-	Confirmed
3.	Transportation	Rs.5,000/-	Rs.5,000/-	Confirmed
4.	Medical Expenses	Rs.89,321/-	Rs.89,321/-	Confirmed
5.	Extra Nourishment	Rs.20,000/-	Rs.20,000/-	Confirmed
6.	Attender Charges	Rs.19,000/-	Rs.19,000/-	Confirmed
7.	Loss of Future Prospects	Rs.50,000/-		
8.	Total	Rs.10,87,321/- rounded to Rs.10,87,350	Rs.19,37,721/-	Enhanced

Therefore, the compensation of Rs.10,87,350/- awarded by the Tribunal is enhanced to Rs.19,37,721/-.

6. The 2nd respondent/Insurance Company is, therefore, directed to deposit the enhanced amount of compensation of Rs.19,37,721/- together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of such deposit, less any amount already deposited by it, within a period of six weeks from the date of receipt of a copy of this Judgment.



7. On such deposit being made by the 2nd respondent/Insurance Company, the appellant/claimant is permitted to withdraw the same together with interest accrued thereon, less any amount already withdrawn in the same proportion as was ordered by the Tribunal.

8. This Civil Miscellaneous Appeal stands partly allowed with the above observations. No costs.

Sd/-
Deputy Registrar (Accounts)

//True Copy//

Sub Assistant Registrar

Vv

To:

1. The Motor Accidents Claims Tribunal,
Special Sub Court No.1,
Small Causes Court, Chennai.
2. The Section Officer,
V.R.Section,
Madras High Court,
Chennai-104.

+1CC to Mr.K.Varadhakamaraj, Advocate, Sr.No.26921
+1CC to Mr.P.Sankaranarayanan, Advocate, Sr.No.26854

CMA.No.1878 of 2020

RLD (CO)
K.RK. (09.11.2021)