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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 29.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CMA.No.3276 of 2014

Bhavani (Minor) rep. by mother and
Next friend Anandhi

... Appellant/claimant

Vs.

1. M.S.Ravishankar

2. New India Assurance Co. Ltd.,
No.80, Arcot road, Porur,
Chennai-116.

... Respondents/ Respondents

This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 12.08.2010 passed in M.C.O.P.No.324 of 2007 by the Additional District and Sessions Judge, Motor Accident Claims Tribunal, Fast Track Court-II, Poonamallee.

For Appellant : Mr.J.Mahalingam

For II respondents : Mr. R.Sivakumar for R2
Notice unserved to R1

J U D G M E N T

Not satisfied with quantum of compensation awarded by the Tribunal, the claimant is before this court seeking enhancement of compensation.

2. The claimant has filed a claim petition before Tribunal seeking compensation of Rs.3,00,000/- for the injuries sustained by her in a road accident that took place on 16.01.2006.

3. The brief case of the claimants is as follows: On 16.01.2006, at about 7.00 p.m., while the claimant was walking by the side of Sastri Nagar, first main Road, a motorcycle bearing



registration No.TN-07-AA-9349 came from the same direction, dashed on her back side, thereby she sustained grievous injuries. According to the claimant, the rash and negligent driving of the first respondent was the cause of accident and since the first respondent/ owner of the vehicle insured his motorcycle with the second respondent/ insurance company, both of them are liable to pay compensation.

4. The second respondent contested the claim petition by filing counter affidavit.

5. Before Tribunal, on the side of the claimant, three witnesses were examined as PW1 to PW3 and Ex.P1 to Ex.P7 were marked. On the side of the respondents, no oral and documentary evidence was adduced.

6. After analysing the evidence on record, the Tribunal has awarded a sum of Rs.76,600/- to the claimant under various heads as extracted hereunder.

Sl No	Heads	Amount in Rs.
1	Permanent disability 25x1500	37,500
2	Pain and sufferings	10,000
3	Transportation charges	5000
4	Extra Nourishment	5000
5	Medical expenses	14,100
6	Attender's charges	5000
	Total	76,600

Aggrieved over the compensation awarded by the Tribunal, the claimant has filed the present appeal to enhance the compensation.

7. Heard the learned counsel for the appellant and the learned counsel for the second respondent/insurance company. I have perused the materials on record.

8. The learned counsel appearing for the appellant submitted that though the Doctor, who deposed as PW3 has assessed the disability suffered by the claimant as 35%, the Tribunal has reduced the disability to 25%, which is erroneous. Further, the Tribunal has not awarded any amount towards "Loss of earning power", "Medical attendance" and "Mental Agony". He further submitted that the claimant was a student and had sustained cut injury in upper lip, injury in forehead and also



she lost her tooth, which resulted in disfiguration of face, however, the Tribunal has not awarded any amount towards "Disfiguration of face". He also submitted that the compensation awarded under the heads are also very meagre and hence, he prayed for enhancement of compensation.

9. The learned counsel appearing for the respondent/ insurance company would submit that he Tribunal after considering the oral and documentary evidence on record, the Tribunal has awarded a just and reasonable compensation and therefore, the award passed by the Tribunal does not warrant any interference by this court.

10. Now the point for consideration is whether the compensation awarded by the Tribunal has to be enhanced.

11. Point

The Doctor Sai Chandran was examined as PW3 and he had given disability certificate Ex.P6, wherein, he assessed the disability suffered by the claimant as 35%. He also deposed about the fracture sustained by the claimant. However, the Tribunal has reduced the same to 25%, without any basis. Therefore, as per the evidence of PW3 as well as the disability certificate Ex.P6, this court fixed the disability at 35% and awarded a sum of Rs.1,500/- per percentage. Accordingly a sum of Rs.52,500/- is awarded towards " Permanent disability" and the compensation awarded under the head " Pain and sufferings is enhanced from Rs.10,000/- to Rs.20,000/-. Further, no amount was awarded towards " Loss of amenities" and hence a sum of Rs.5,000/- is awarded for the above said head. As far as the compensation awarded under the heads are concerned, this court is of the view that they are just and reasonable and no modification is required. Accordingly, the revised compensation awarded under various heads is extracted hereunder.

Sl. No	Heads	Compensation Awarded by the Tribunal	Compensation enhanced/ Awarded by this court
1	Permanent disability	37,500	52,500
2	Pain and sufferings	10,000	20,000
3	Transportation charges	5,000	5,000
4	Extra Nourishment	5,000	5,000
5	Medical expenses	14,100	14,100
6	Attender's charges	5,000	5,000



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Sl. No	Heads	Compensation Awarded by the Tribunal	Compensation enhanced/ Awarded by this court
7	Loss of amenities	-	5,000
8	Total	76,600	1,06,600

This amount shall carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit.

12. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed and the award passed by the Tribunal is enhanced from 76,600/- to Rs.1,06,600/-. No costs.

(ii) The insurance company is directed to deposit the revised compensation of Rs.1,06,600/- with interest at the rate of 7.5.% p.a. from the date of claim petition till the date of deposit, less the amount if already deposited, within a period of six weeks from the date of receipt of a copy of this order.

(iii) On such deposit being made by the insurance company, the claimant is entitled to withdraw the same, after following due process of law.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

mst

To

1. The Additional District and Sessions Judge,
Motor Accident Claims Tribunal,
Fast Track Court-II, Poonamallee.

Copy to:
The Section Officer,
V.R.Section, Madras High Court.

+1cc to M/s.R.Sivakumar, Advocate, S.R.No.20474

CMA. No.3276 of 2014 and

KJ(CO)
SU(29/09/2021)