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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.07.2021

CORAM

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

C.M.A. No.3680 of 2019

Savithiri

...Appellant/Petitioner

Versus

1.V.R.A.Radhakrishnan

2.The Oriental Insurance Company Ltd.,
CBO-1, Siva Complex, 2nd Floor,
No.22-C, Sarada College Main Road,
Salem 636016.

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 15.11.2018 in MCOP.No.190 of 2015 on the file of the Motor Accidents Claims Tribunal/Special Sub Judge No.I, Salem.

For appellant : Mr.A.Sathishkumar
for M/s.C.Thangaraju

For respondents :
for R2 : M/s.M.J.Vijayaraghavan

J U D G M E N T

The appeal is heard through video conferencing.

2. Not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal/Special Sub Judge No.I, Salem, in MCOP.No.190 of 2015 dated 15.11.2018, the present appeal has been filed by the claimant for enhancement of the compensation amount.

3. It is the case of the appellant/claimant that on 25.12.2014 at about 5.00 pm, when the claimant was walking on the left side of Kovai to Mettupalayam Main Road, a Maruthi 800 Car bearing Registration No.TC-3553, belonging to the first respondent and insured with the second respondent, driven by its driver in a rash and negligent manner and dashed against the petitioner. Due to the impact, the claimant sustained multiple grievous injuries all over her body. Immediately, she was



admitted in the Government Hospital, P.N.Palayam and then she was shifted to CMC Hospital, Kovil and thereafter, she took further treatment in Dr.Muthu's Hospital, Kovai.

4. It is the further case of the claimant that she was aged about 30 years at the time of the accident and she was working as a Coolie and earning Rs.6,000/- per month. She is the sole breadwinner of the family and due to the accident, the claimant and her family are suffering for their livelihood. Hence, she filed a claim petition claiming a sum of Rs.25,00,000/- as compensation.

5. The said claim petition was resisted by the second respondent/Insurance Company by filing a detailed counter statement denying the manner of the accident as projected by the claimant in the claim petition. They also denied the avocation and income mentioned in the claim petition. Thus, they sought for dismissal of the claim petition.

6. In order to prove the claim on the side of the claimant, she examined herself as PW1 and marked Exs.P1 to P5. Ex.C1 and Ex.C2 were marked as Court documents. On the side of the Insurance Company, neither any oral evidence was adduced nor any document was marked.

7. The Tribunal after analysing the entire evidence came to the conclusion that the accident had occurred only due to the rash and negligent driving of the Maruti Car. By coming to such conclusion, the Tribunal passed an award for a sum of Rs.2,09,137/- and directed the Insurance Company to pay the above compensation. The break-up details of the amounts awarded by the Tribunal are as follows:

S.No.	Heads under which amounts are awarded	Amount in Rs.
1.	Pain Sufferings	15,000
2.	Loss of Income	24,000
3.	Medical Expenses	88,387
4.	Transport Expenses	10,000
5.	Nutrition Expenses	10,000
6.	Attender Charges	10,000
7.	Damages to Cloth	1,750
8.	Loss of Amenities	5,000
9.	Permanent Disability	45,000
	Total	2,09,137



8. It is the specific contention of the learned counsel for the appellant/claimant that the claimant sustained severe head and leg injuries and also sustained fracture. The Doctor assessed the claimant and issued Ex.C1 disability certificate assessing the disability at 15%. The claimant is having difficulty in standing for a long time and hence, she is not able to do any hard work. The pain and sufferings, mental agony and physical discomfort undergone by her is also enormous. The Tribunal, without taking note of the above has taken only a sum of Rs.3,000/- per percentage of disability and awarded a sum of Rs.45,000/- [15 x 3,000] under the head "Permanent Disability", and the same needs enhancement. That apart, the learned counsel further submitted that the amount awarded by the Tribunal under the other heads are also on the lower side and they require appropriate enhancement.

9. Per contra, the learned counsel appearing for the second respondent/Insurance Company made his submissions, supporting the award passed by the Tribunal.

10. This Court finds that in the said accident, the appellant/claimant suffered severe injuries and she was referred to Medical Board to assess the injuries suffered by her. The Medical Board after assessing the claimant issued Ex.C1-disability certificate stating that she suffered "Right inferior public rami fracture", and fixed disability at 15%. Considering the injuries suffered by her, this Court is of the view that it is appropriate to award a sum of Rs.4,000/- per percentage of disability. If so awarded, the "permanent disability" comes to Rs.60,000/- [15 x 4,000]. Thus, the sum of Rs.45,000/- awarded by the Tribunal under the head "permanent disability" is set aside, instead a sum of Rs.60,000/- is awarded under such head.

11. Considering the injuries suffered by the claimant and the pain and sufferings undergone by the claimant, this Court is of the view that the sum of Rs.15,000/- awarded by the Tribunal under the head "Pain and Sufferings" is very meagre and hence, the same is set aside, instead a a sum of Rs.20,000/- is awarded to the claimant under such head.

12. The amounts awarded by the Tribunal under all the other heads are just and proper and hence, the same are hereby confirmed. Thus, the total compensation payable to the claimant is re-calculated and tabulated below:



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S. No.	Heads under which amounts are awarded	Amounts awarded by the Tribunal in Rs.	Amounts awarded by this Court in Rs.
1.	Pain Sufferings	15,000	20,000
2.	Loss of Income	24,000	24,000
3.	Medical Expenses	88,387	88,387
4.	Transport Expenses	10,000	10,000
5.	Nutrition Expenses	10,000	10,000
6.	Attender Charges	10,000	10,000
7.	Damages to Cloth	1,750	1,750
8.	Loss of Amenities	5,000	5,000
9.	Permanent Disability	45,000	60,000
	Total	2,09,137	2,29,137 rounded off to 2,30,000

13. Thus, the total compensation of Rs.2,09,137/- awarded by the Tribunal is hereby enhanced to Rs.2,30,000/- (Rupees two lakhs and thirty thousand only), which shall carry interest at 7.5% from the date of claim petition till the date of deposit. The second respondent/Insurance Company is directed to deposit the total compensation awarded by this Court before the Tribunal, after adjusting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the entire amount. The appellant/claimant shall pay necessary Court fee, if any, on the enhanced compensation.

14. With the above observations and directions, this Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

pvs



To

1.The Special Sub Judge No.I, Salem/
The Motor Accident Claims Tribunal

2.The Section Officer,
V.R.Section, High Court, Madras.

C.M.A. No.3680 of 2019

SR (CO)
PR (16/11/2021)