



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.NO.4074 OF 2019

Deepa

.. Appellant/Claimant

.Vs.

1.Ranjitham

2.The Oriental Insurance Co. Ltd.

Siva complex II floor, 22C

Saradha college main road

Salem-636 016.

Branch office at Mettur road

Parimalam complex, EVN road

Erode-1.

3.Sivakumar

4.Kannan

5.Raja

.. Respondents/Respondents

Prayer:

This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 29.07.2019 made in M.C.O.P.No.283 of 2017 on the file of Motor Accident Claims Tribunal, Special Sub Court, Erode.

For Appellant : Mr.T.S.Arthanareeswaran
for Mr.C.Paraneedharan

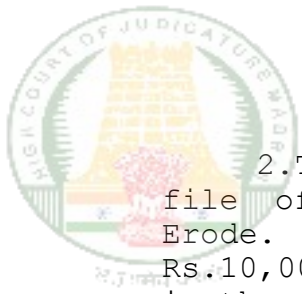
For R1, R3 to R5 : No appearance

For R2 : Mr.M.J.Vijayaraaghavan

J U D G M E N T

This matter is heard through "Video-Conferencing".

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 29.07.2019 made in M.C.O.P.No.283 of 2017 on the file of Motor Accident Claims Tribunal, Special Sub Court, Erode.



WEB COPY

2.The appellant is claimant in M.C.O.P.No.283 of 2017 on the file of Motor Accident Claims Tribunal, Special Sub Court, Erode. She filed the said claim petition claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by her in the accident that took place on 24.07.2016.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the 4th respondent, the driver of the car belonging to the 1st respondent and directed the 2nd respondent/Insurance Company being insurer of the said car to pay a sum of Rs.2,10,000/- as compensation to the appellant.

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 in the accident, the appellant suffered both bones fracture of right leg. The appellant has taken treatment as in-patient in Dharan Hospital, Salem, from 24.07.2016 to 29.07.2016, underwent surgery and interlocking nailing was fixed on her right tibia. The Medical Board after examining the appellant, certified that the appellant suffered 40% partial permanent disability and issued Ex.C1/disability certificate. The Tribunal fixed the disability of the appellant at 20% and awarded a sum of Rs.3,000/- per percentage of disability, which is meagre. At the time of accident, the appellant was working as a coolie in masonry work and was earning a sum of Rs.14,000/- per month. The Tribunal without considering the same, erred in fixing the notional income of the appellant at Rs.8,800/- per month. The appellant is still taking treatment for the injuries and the Tribunal ought to have awarded compensation towards future medical expenses. The amounts awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

6.Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the appellant failed to prove the avocation and income. In the absence of material evidence with regard to avocation and income, the Tribunal fixed notional income of the appellant at Rs.8,800/- per month and the same is in order. The total compensation awarded by the Tribunal is excessive. The appellant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

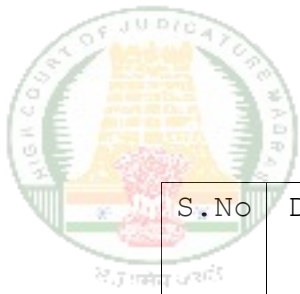
7.Though notice has been served on the respondents 1, 3 to 5 and their names are printed in the cause list, there is no representation for them either in person or through counsel.



३.१ प्रयोग ५२

accide

<https://hcservices.ecourts.gov.in/hcservices/>



WEB COPY

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1.	Loss of earning	35,200	56,000	Enhanced
2.	Transportation	6,000	10,000	Enhanced
3.	Extra nourishment	8,000	10,000	Enhanced
4.	Attendant charges	6,000	10,000	Enhanced
5.	Damage to clothes and articles	3,000	3,000	Confirmed
6.	Medical expenses	61,500	61,500	Confirmed
7.	Pain and suffering	30,000	30,000	Confirmed
8.	Permanent disability	60,000	1,00,000	Enhanced
	TOTAL	2,09,700 rounded off to 2,10,000	2,80,500	Enhanced by Rs.70,500/- (Rs.2,80,500/-- Rs.2,10,000/-)

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,10,000/- is hereby enhanced to Rs.2,80,500/- 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 six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant is permitted to withdraw the award amount now determined by this Court along with interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-

Deputy Registrar (Admin III)

//True Copy//

Sub Assistant Registrar



kj

To

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

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

+2cc to Mr.T.S.Arthanareeswaran, Advocate, S.R.No.6436

C.M.A.No.4074 of 2019

NMI (CO)
CS/19/11/2021