



C.M.A.No.1015 of 2016

WEB COPY IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 13.10.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.1015 of 2016

Shanthi ... Appellant/Petitioner

Vs.

1.R.Ganesan

2.The United India Insurance Company Limited,
No.10, Audiyappa Grammani Street,
Royapuram,
Chennai -13.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act against the Award and Decree dated 21.12.2015 in M.C.O.P.No.526 of 2012 on the file of the learned V Judge, Small Causes Court, Motor Accidents Claims Tribunal, Chennai.



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For Appellant : Mr.P.D.Selvaraj

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For Respondents : Mr.K.Swaminathan for R2

R1 – notice dispensed with.

JUDGMENT

The petitioner before the Tribunal has filed the above appeal seeking enhancement of the Award passed in M.C.O.P.No.526 of 2012. The ground on which the enhancement is sought for is that the petitioner has sustained injuries by reason of which she is unable to walk and being a vegetable vendor she is unable to carry on her occupation.

2.The learned counsel for the petitioner would submit that the petitioner is a vegetable vendor and she has two minor children and she is the sole bread winner of the family. On account of the injuries, she could not able to work as before.



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WEB COPY 3.Mr.J.Swamintahtan, learned counsel for the Insurance Company would submit that the injuries sustained by the appellant is not of a grievous in nature and has in no manner affected her functional capacity. Therefore, the learned counsel would submit that the Award passed by the Tribunal is in order and does not warrant any reconsideration.

4.Heard the learned counsels appearing on either side and perused the papers.

5.A perusal of Ex.P.2 – Accident Register and Ex.P.3 – Discharge Summary would show that the petitioner has suffered injuries on the left foot producing a raw area 10 x 4 x 2 cms on the dorsal area for which she has undergone a debridement. The case sheet of the Government Stanley Hospital would indicate that the petitioner has only been referred for plastic surgery for having the raw area



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closed. However, PW2 who has issued Ex.P.10 – Disability Certificate has assessed the permanent disability to the tune of 25% where he has stated that there is a post traumatic scar keloid on the right dorsum of foot. Even as per the Disability Certificate, the petitioner has only suffered a scar and that she finds it difficult to stand and walk and the photograph which has been marked shows that the petitioner's wound has been sutured and it now only shows as a scar. Further, from the Ex.P.3 – Discharge Summary, it is seen that the petitioner is only a Coolie and not a vegetable vendor as she contended. Further, she has come to the hospital by herself accompanied by her husband. The argument of the learned counsel for the appellant/petitioner that the petitioner is a destitute appears to be unfounded. Even Ex.P.2 – Accident Register would show that she has been brought to the hospital only by her husband by name Kumar. The description of the petitioner would also show that she is the wife of M.Kumar. The record would show that she was an inpatient for seven days. Therefore, the amount granted under the head of damages for pain, suffering and trauma is



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reduced to a sum of Rs.10,000/- under this head. In all aspects, the award amount appears to be reasonable. Therefore, taking into consideration the above aspects, the modified amount is as follows:

Transportation, extra nourishment and Miscellaneous expenditure	-Rs. 10,000/-
Medical expenses	-Rs. 20,600/-
Attendant charges	-Rs. 3,800/-
Disability	-Rs. 30,000/-
Loss of earning during the period of treatment	-Rs. 13,000/-
Damages for pain, suffering and trauma	-Rs. 10,000/-
Loss of amenities	-Rs. 25,000/-

Total	-Rs.1,12,400/-

6. Accordingly, this Civil Miscellaneous Appeal is partly allowed. The 2nd respondent/Insurance Company is directed to deposit the entire amount, less the amount already deposited, with proportionate accrued interest and costs, to the credit of M.C.O.P.No.526 of 2012 on the file of the learned V Judge, Small Causes Court, Motor Accidents Claims



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Tribunal, Chennai, within a period of six weeks from the date of receipt of a copy of this order, if not deposited earlier. On such deposit, the appellant is permitted to withdraw the entire award amount with proportionate accrued interest and costs, by making necessary applications.

The claimant is directed to pay the Court fee for the compensation amount, if required. The Tribunal below shall not disburse the amount till such time as proof of payment of Court Fee has been produced by the claimant. No costs.

13.10.2022

Index : Yes/No
Internet : Yes/No
Speaking order / Non speaking order
mps

P.T. ASHA, J,

mps



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To

The V Judge,
Small Causes Court,
Motor Accidents Claims Tribunal,
Chennai.

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