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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2022

CORAM

THE HONOURABLE Ms. JUSTICE P.T.ASHA

C.M.A. No.1925 of 2021

Vasanthakumari

... Appellant / Petitioner

Vs.

1.Pitchammal

2.Ponnusamy

3. Reliance General Insurance Co. Ltd.,
6th Floor No.6, Haddow Road,
Nungambakkam, Chennai - 600 006.

4. The Oriental Insurance Co. Ltd.,
Third Party Claims Hub,
New No.216, Old No.115,
Prakasam Salai, Broadway,
Chennai - 600 108.

... Respondents / Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P.No.3558 of 2015 dated 09.12.2020 on the file of the Motor Accident Claims Tribunal, II Additional Subordinate Court, Cuddalore.

For Appellant : Ms.Ramya V.Rao

For Respondents: Mr.K.Vinod
for R3

Mr.D.Bhaskaran
for R4

R2- Served- No Appearance

R1- Not ready in notice



J U D G M E N T

The injured claimant has filed this Appeal seeking enhancement of the award passed by the Motor Accident Claims Tribunal, II Additional Subordinate Judge, Cuddalore in M.C.O.P.No.3558 of 2015 dated 09.12.2020.

2. The claimant is particularly aggrieved by the fact that no amounts had been granted under the head of disability and towards attender charges, though the claimant had been hospitalized for nine days and also since no amount had been granted under the head of loss of income for a period of over four months.

3. The Tribunal, after hearing the parties and perusing the evidence, had arrived at the following compensation:

Heads	Amount in Rs.
Transport to Hospital	5,000
Special Diet	10,000
Pain and sufferings	40,000
Loss of amenities for whole body	20,000
Medical Bills	7,150
Total	82,150

Challenging the same, the claimant is before this Court.

4. Heard the learned counsel appearing for the appellant and the learned counsels for the third and fourth respondent-Insurance Companies and perused the materials available on record. Though the second respondent had been served, he has not entered appearance. Notice sent to the first respondent has been returned with an endorsement 'left'. Today also, there is no representation for the second respondent. However, their respective Insurance Companies are before this Court and therefore this Court has proceeded to pass orders.

5. The learned counsel appearing for the third respondent Insurance Company would submit that the Tribunal had held that the claimant has not suffered any loss of income or reduction in the post, on account of the injuries sustained by her and therefore, she is not entitled to compensate under the above heads.

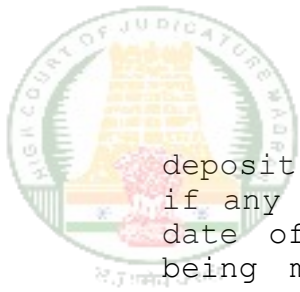


6. However, the learned counsel appearing for the appellant/ claimant would submit that on account of her injuries, she is not able to work as before and this would definitely have a repercussion on her future promotions, although as of now, she continues in the same post. The appellant/ claimant has also filed discharge summary Ex.P3 and the disability certificate issued by the Medical Board Ex.C1, to show the disability suffered by her. Therefore, she ought to have been awarded some amount under the said head.

7. The Medical Board had assessed her disability at 24% and further plates and screws had been implanted to the fractures sustained by her. Therefore, this Court is of the view that under the head of disability, the appellant/ claimant may be awarded Rs.96,000/- (Rs.4,000/- x 24%). The claimant admittedly was an in-patient for nine days, for which she must have definitely had the assistance of an attender. No amounts had been given under this head and therefore, a sum of Rs.10,000/- shall be awarded under the head of attender charges. The claimant must have remained at home at least for a period of four months to recuperate and would have suffered a loss of income. Therefore a sum of Rs.48,000/- (Rs.12,000/- x 4) towards the head of loss of income is awarded. Therefore, the award is enhanced by a sum of Rs.1,54,000/-. The Award amount is therefore enhanced from a sum of Rs.82,150/- to a sum of Rs.2,36,150/- as follows:

Heads	Amount in Rs.
Transport to Hospital	5,000
Special Diet	10,000
Pain and sufferings	40,000
Loss of amenities for whole body	20,000
Medical Bills	7,150
Disability	96,000
Attender Charges	10,000
Loss of Income	48,000
Total	2,36,150

8. The appeal is partly allowed and the impugned Award of the Tribunal is modified, enhancing the compensation amount from Rs.82,150/- to Rs.2,36,150/-. The third respondent-Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.3558 of 2015 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of



deposit and costs as awarded by the Tribunal, less, 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 being made, the claimant is permitted to withdraw the award amount, along with accrued interest and costs as awarded by the Tribunal, less, the amount, if any already withdrawn, by filing necessary application before the Tribunal. The claimant is directed to pay the Court fee for the enhanced compensation amount, if required. The Tribunal below shall not disburse the enhanced amount till such time as the certified copy showing proof of payment of Court fee has been produced by the claimant. In other respects, the Award of the Tribunal is hereby confirmed. There shall be no order as to costs in the present appeal.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,
II Additional Subordinate Court,
Cuddalore.
2. The Section Officer,
VR Section, Madras High Court,
Chennai.

+1cc to M/s.Elaveera Ravindran, Advocate, S.R.No.19573
+1cc to Mr.D.Bhaskaran, Advocate, S.R.No.20123
+2ccs to Ms.Ramya V.Rao, Advocate, S.R.No.20019

C.M.A. No.1925 of 2021

SR-II[co]
NSK 25/04/2022