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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.M.A.NO.2729 OF 2021

S.Mariyammal

... Appellant/Petitioner

.Vs.

1. R.Narayanan

2. The Reliance General Insurance
Company Limited,
Reliance House,
R.O.Legal Department,
No.6, 6th Floor,
Haddows Road, Nungambakkam,
Chennai - 600 006.

... Respondents/Respondents

PRAYER:-

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 29.09.2020 made in M.C.O.P.No.1935 of 2017 on the file of the Motor Accident Claims Tribunal, (V-Small Causes Court), Chennai.

For Appellant : Mr.K.Varadha Kamaraj

For Respondents : Mr.R.Sunil Kumar
For R2

J U D G M E N T

The claimant is on appeal, complaining that the compensation awarded for the injuries suffered by her in a road accident that occurred on 28.02.2017.

2. The factum of the accident and the fact that the claimant suffered injuries in the accident are not in dispute. The Tribunal, considering the injuries suffered by the claimant awarded a sum of Rs.2,30,300/- as compensation. The disability was assessed at 5% by the medical professional. The Tribunal



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awarded a sum of Rs.15,000/- towards partial permanent disability at Rs.3,000/- per percentage. On the other heads, the Tribunal awarded the following amounts as compensation:-

Heads	Amounts
Towards pain and sufferings	Rs.30,000/-
Towards Extra Nourishment and Transportation charges	Rs.30,000/-
Medical Expenses	Rs.1,10,796/-
Loss of Amenities	Rs.30,000/-
Damages to Clothes	Rs.1,000/-
Loss of income for 3 months	Rs.9,000/-
Attender Charges	Rs.4,500/-

3. Mr.K.Varadha Kamaraj, learned counsel appearing for the appellant would vehemently contend that the Tribunal must have adopted atleast Rs.5,000/- per percentage of disability, since the accident had occurred in the year 2017. He would add that the Tribunal was not right in granting a very meagre amount towards attender charges and pain and suffering. According to the learned counsel, the claimant being a 56 years old lady would have suffered lot of pain because of the fracture of both the bones of the leg, though there may not be a disability attached to the injury. The learned counsel would also add that the attender charges must have been more, considering the nature of the injury. Contending contra, Mr.Sunil Kumar, learned counsel appearing for the Insurance Company would submit that the award is fair and reasonable and no need to interfere with the quantum fixed by the Tribunal.

4. I see some force in the submissions of the learned counsel appearing for the Appellant that the compensation awarded for the disability caused is low. The Hon'ble Supreme Court of this Court have held that for a accident that took place in the year 2017, the Courts can fix a higher amount and it is not essentially Rs.3,000/- as fixed by the Tribunal.

5. Mr.Sunil Kumar, learned counsel appearing for the Insurance Company would however, submit that the amount awarded towards extra nourishment, transport charges and loss of amenities are on the higher side and therefore, that would offset the deficiency, if any, in the award for permanent disability. I have considered the submissions of the learned counsel.



6. As regards the permanent disability, when it does not involve a functional disability and there is no impact on the earning capacity of the victim, the award is to be made at a certain amount for every percentage of injury. Having accepted the evidence of the Doctor, the Tribunal has assessed the disability at 5% and granted Rs.15,000/- as compensation at Rs.3,000/- per percentage. As rightly pointed out, this Court and Hon'ble Supreme Court have granted Rs.5,000/- per percentage of disability for an accident that took place in the year 2017. Hence, I am of the opinion that the same Rs.5,000/- could be adopted in this case also. Thereby, enhancing the compensation awarded for the disability from Rs.15,000/- to Rs.25,000/. The attender charges also need to be revised.

7. Considering the age of the claimant that is 56 years old at the time of the accident and the nature of the fractures, I am sure that it would have taken a longer time to recover, and the Court has awarded compensation for loss of income for a period of three months. Therefore, the attender charges should have been calculated for a period of three months, which would not be less than Rs.10,000/-. Therefore, the compensation awarded under the head of attender charges is enhanced to Rs.10,000/-.

8. In fine, this appeal is partly allowed, the award is modified, granting a sum of Rs.25,000/- under the head of disability and Rs.10,000/- under the head of attender charges. Thus, the award of the Tribunal is modified and the total compensation awarded is assessed at Rs.2,45,800/- with interest at 7.5% per annum. The Insurance Company is directed to deposit the enhanced compensation within a period of six weeks from today. On such deposit, the claimant will be entitled to withdraw the same. No costs.

Sd/-

Assistant Registrar(CS VI)

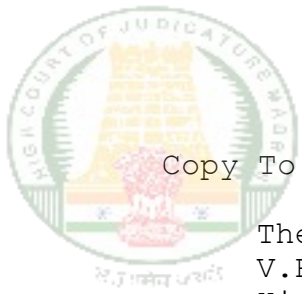
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Sub Assistant Registrar

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To

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



Copy To:-

The Section Officer,
V.R. Section,
High Court,
Madras - 104.

+1cc to Mr.K.Varadha Kamaraj, Advocate, S.R.No.1712
+1cc to Mr.R.Sunil Kumar, Advocate, S.R.No.1758

C.M.A.NO.2729 OF 2021

RLD(CO)
PBS/18/05/2022