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CMA.No.258 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.08.2023

CORAM

THE HONOURABLE MRS.JUSTICE R. KALAIMATHI

C.M.A.No.258 of 2020

K.Megala

... Appellant

vs.

1. Anees Banu
2. United India Insurance Co.Ltd.,
Motor Third Party Hub,
Silingi Building, 4th Floor,
No.134, Greems Road,
Chennai-600 006.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the Judgment and decree dated 25.11.2019 in MCOP.No.345 of 2017, on the file of the Motor Accidents Claims Tribunal, (II Special Subordinate Judge) Small Causes Court, Chennai.

For appellant : Mr.R.Nalliyappan

For respondents : R1 - Not ready in notice
: Mr.S.Arun Kumar



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JUDGMENT

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Not being satisfied by the award passed in MCOP.No.345 of 2017 dated 25.11.2018 on the file of Motor Accident Claims Tribunal (II Special Sub Judge), Small Causes Court, Chennai. The claimant herein has preferred this civil miscellaneous appeal for enhancement of compensation.

2. The claim petition was filed under Section 166 of Motor Vehicles Act and under Rule 3 of Motor Vehicles Rules claiming a compensation of Rs.13,00,000/- for the injuries sustained by the claimant in the accident that occurred on 16.12.2016.

3. The learned counsel appearing for the appellant would vehemently contend that on account of the accident, the appellant sustained injuries on her head and right leg as the crane hit on her. She also sustained fracture over her hip and thigh, for which, the Doctor (PW3) has assessed the disability at 35%. The tribunal has granted Rs.50,000/- for partial permanent disability and for medical expenses and for transport expenses amount of Rs.19,180/- was granted.



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4. Per contra, the learned counsel for the Insurance Company would strenuously argue that the disability assessed by the Doctor is on the higher side as she was hospitalized only for a day and prayed for dismissal of the appeal.

5. It is seen from the medical records that Discharge Summary Ex.P.2 that the claimant suffered Left Illiac wing fracture with left IPR fracture. The claimant has sustained fracture in her hip and thigh bone and therefore she would definitely find it difficult to lift objects and while climb up the stairs. She was stated to be pursuing her B.Sc degree. The accident occurred on 16.12.2016. For partial permanent disability suffered, an amount of Rs.20,000/- is granted in addition to the amount already granted. For loss of amenities Rs.20,000/- is granted. Some attender would have been engaged by the appellant during the treatment period. Therefore, an amount of Rs.10,000/- is granted for attender charges. For pain and suffering undergone by the appellant an amount of Rs.15,000/- is granted. In all other aspects, amount awarded appears to be reasonable and hence needs no interference. The compensation is reworked and tabulated as follows:



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6. The Compensation awarded by the Tribunal is reworked as tabulated below:

Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For partial permanent disability	Rs.50,000/-	Rs.70,000/-	Enhanced
2	For Medical and Transport Expenses	Rs.19,180/-	Rs.19,180/-	Confirmed
3.	For Loss of Amenities	---	Rs.20,000/-	Granted
4	For Attender Charges	---	Rs.10,000/-	Granted
5	For Pain and Suffering	---	Rs.15,000/-	Granted
	Total	Rs.69,180/- the same is rounded to Rs.69,200/-	Rs.1,34,180/- the same is rounded to Rs.1,34,200/-	

7. Thus, the compensation awarded by the Tribunal is enhanced from **Rs.69,200/-** to **Rs.1,34,200/-** which would carry interest at the rate of 7.5% per annum from the date of petition till the date of realisation.



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8. In the result,

(i) The Civil Miscellaneous Appeal is **partly allowed**. No costs.

(ii) The compensation awarded by the Tribunal is enhanced from **Rs.69,180/- to Rs.1,34,200/--**.

(iii) The 2nd respondent / Insurance Company is directed to deposit the enhanced compensation amount i.e., **Rs.1,34,200/-** (less the amount already deposited if any) together with interest at the rate of 7.5% per annum **from the date of numbering of the petition ie., 17.01.2017** till the date of deposit to the credit of M.C.O.P.No.345 of 2017 on the file of the Motor Accidents Claims Tribunal, Motor Accidents Claims Tribunal, (II Special Subordinate Judge) Small Causes Court, Chennai within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the appellant / claimant is at liberty to withdraw the same on filing of cheque petition. The claimant is directed to pay the requisite Court fee for the enhanced compensation amount, if



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required. The Tribunal below shall disburse the enhanced amount upon production of the certified copy showing proof of payment of Court fee by the claimant.

29.08.2023

Vv

Index:Yes/No

Internet:Yes/No

To

1. The Motor Accidents Claims Tribunal,
(II Special Subordinate Judge)
Small Causes Court,
Chennai.
2. The Section Officer,
V.R.Section,
Madras High Court,
Chennai 104.



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