



WEB COPY



CMA.No.3634 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CMA.No.3634 of 2019

Muthulakshmi

Appellant

Vs

1. Radhakrishnan

2. The Manager, M/s.ShriRam General
Insurance Company Limited, Rajasthan 302022 Respondents

Prayer:- This Civil Miscellaneous Appeal has been filed, against the judgement and decree, dated, 20.10.2016, made in MCOP.No.331 of 2014, by the Chief Judicial Magistrate (MACT) Perambalur.

For Appellant : Mr.A.Sathish Kumar

For Respondents : Mr.K.Poomalai-R2

JUDGEMENT

1. This Civil Miscellaneous Appeal has been filed, by the claimant, against the judgement and decree, dated, 20.10.2016, made in MCOP.No.331 of 2014, by the Chief Judicial Magistrate (MACT) Perambalur, for enhancement of compensation.

2. The Appellant has filed the claim petition before the Tribunal, seeking a compensation of Rs.10,00,000/- on various heads, for the injuries sustained by her, in a motor road accident, which took place on 21.12.2013 at about 20.00 hours. The 1st Respondent is the owner of the offending van and the 2nd Respondent herein is the insurer of the offending vehicle. The claim petition was resisted, on various grounds, by the 2nd Respondent Insurance



CMA.No.3634 of 2019

WEB COPY

Company, by filing a counter. On the side of the claimant, PW.1 and PW.2 were examined and Ex.P1 to Ex.P12 were marked.

3. Finding that the accident had occurred only due to the rash and negligent driving of the driver of the offending vehicle, the Tribunal has awarded a total compensation, belonging to the 1st Respondent herein, the Tribunal has awarded a total compensation of Rs.6,10,000/- with interest at 7.5% p.a. from the date of the claim petition till the date of realization, to be payable by the 2nd Respondent Insurance Company, as detailed below:-

S.No	Category	Award Amount (Rs.)
1	Loss of Future Income	561600.00
2	X-Ray expenditure	400.00
3	Transportation Expenses and Extra Nourishment	15000.00
4	Attendants Charges	3000.00
5	Pain and Suffering and Medical Expenses	30000.00
Total Compensation		610000.00

Aggrieved by the quantum of compensation, this appeal has been filed by the claimant.

4. This Court heard the learned counsel on either side, considered their submissions and also perused the entire materials placed on record.
5. As regards the negligence aspect, the Tribunal, considering the evidence on record, has held that there was negligent on the part of the driver of the offending vehicle, owned by the 1st Respondent herein and that the accident had occurred only due to the rash and negligent driving of the driver of the offending vehicle. Since the finding, recorded by the Tribunal, with regard to the actionable negligence, has not been assailed by the Respondent herein, the said finding of the Tribunal with regard to the negligence aspect, fixing



the same on the part of the driver of the offending vehicle, is confirmed. As such, it is not necessary to narrate the entire facts in detail in respect of the accident. However, the dispute is only with regard to the quantum of compensation.

6. According to the learned counsel for the Appellant, the since claimant was working in the Welfare Department for Women, the Tribunal should have fixed her monthly income at Rs.9,000/- and accordingly, awarded more compensation under the head of loss of future income and the compensation awarded under the other heads are also not just and proper.
7. According to the learned counsel for the 2nd Respondent/ Insurance Company, the compensation awarded by the Tribunal is just and proper.
8. Though it is claimed by the claimant that he was earning a sum of Rs.9,000/- per month, in the absence of evidence to prove her monthly income, the Tribunal has fixed the notional monthly income of the claimant at Rs.6,000/-, which can be fixed at Rs.6,250/-. The Tribunal has rightly fixed the partial permanent disability suffered by the claimant at 65%, based on the oral evidence of PW.2 Doctor and other medical records, such as, Ex.P11 X-Ray and Ex.P12 disability certificate. However, since it is stated in the claim petition that the claimant was aged 40 years at the time of the accident, the proper multiplier would be 15. Thus, the total loss of future income would come to Rs.7,31,250/- (Rs.6,250x12x15x65/100). The compensation awarded under the other heads by the Tribunal, which are just and proper, shall stand unaltered. In all, the claimant is entitled to a sum of Rs.7,79,650/-



CMA.No.3634 of 2019

as total compensation, with interest 7.5% p.a. from the date of the claim petition till the date of realisation.

9. In the result, this Civil Miscellaneous Appeal is partly allowed. In all, the claimant is entitled to a total compensation of Rs.7,79,650/- (Rupees seven lakhs seventy nine thousand six hundred and fifty only) with interest 7.5% p.a. from the date of the claim petition till the date of realisation, as detailed below:-

S.No	Category	Award Amount (Rs.)
1	Loss of Future Income (Rs.6250x12x15x65/100)	731250.00
2	X-Ray expenditure	400.00
3	Transportation Expenses and Extra Nourishment	15000.00
4	Attendants Charges	3000.00
5	Pain and Suffering and Medical Expenses	30000.00
Total Compensation		779650.00

The 2nd Respondent Insurance Company is directed to deposit the entire award amount with interest at 7.5% p.a. from the date of the claim petition till the date of deposit, after deducting the amount, if any already, deposited, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the claimant is entitled to withdraw the entire compensation amount with interest, by filing proper application. No costs.

31.03.2023

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Srcm

A.A.NAKKIRAN, J.

Srcm



CMA.No.3634 of 2019

To

WEB COPY

1. The Chief Judicial Magistrate (MACT) Perambalur
2. The Record Keeper, VR Section, High Court, Madras

CMA.No.3634 of 2019

31.03.2023