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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1986 of 2020

U.Jayalakshmi ... Appellant

Vs.

1.C.Vinoth

2.United India Insurance Co., Ltd.,
Third Party Hub,
Silingi Building,
No.134, Greems Road,
Chennai – 600 006. ... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow the present appeal award enhanced compensation in the judgment and decree dated 18.12.2019 in M.C.O.P.No.2531 of 2016 on the file of the Motor Accidents Claims Tribunal (IV Small Causes Court) Chennai.

For Appellant : Ms.D.Jeevitha
for M/s.R.Nalliyappan
For Respondents : Mr.D.Bhaskaran for R2

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J U D G M E N T

This appeal has been filed seeking to set aside the judgment and decree dated 18.12.2019 passed by the Motor Accident Claims Tribunal (IV Small Causes Court) Chennai, in M.C.O.P.No.2531 of 2016.

2.The learned counsel appearing for the appellant submitted that on 24.03.2016 at about 14.00 hours, the appellant claimant was travelling as pillion rider in the motorcycle bearing Registration No.TN 09 BY 8626 in Ekkattuthangal Poonammallee Road in front of Nellai Tea Stall from East to West direction. At that time, a TATA Magic bearing Registration No.TN 22 CA 8260 belonging to the first respondent and insured with the second respondent came in a rash and negligent manner and dashed against the motorcycle, due to which, the appellant sustained injuries.

3.The learned counsel appearing for the appellant further submitted that thereafter, the injured claimant/ appellant filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.8 Lakhs. After adjudication, the Motor Accidents Claims Tribunal awarded a sum of Rs.1,20,200/- with interest at the

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rate of 7.5% p.a. from the date of numbering of the petition i.e., 18.04.2016 till the date of realisation and proportionate costs and directed that the second respondent to deposit the compensation and granted liberty to the second respondent to recover the same from the first respondent. The learned counsel further submitted that the amount awarded by the Tribunal is meagre and hence, the appellant claimant has filed this appeal for enhancement in compensation.

4.The learned counsel appearing for the second respondent Insurance Company submitted that the Tribunal after considering all the factual aspects, awarded the compensation which is just and reasonable and hence, the impugned judgment warrants no interference.

5.Heard the learned counsel appearing for the appellant claimant as well as the learned counsel appearing for the second respondent Insurance Company and perused the materials available on record.

6.The accident and the manner in which the accident happened are not disputed. This appeal has been filed only questioning the

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quantum of compensation.

7.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.30,000/- for disability, Rs.10,000/- for pain and sufferings, Rs.10,000/- for additional nourishment, Rs.10,000/- for loss of amenities, Rs.1,200/- for attender charges, Rs.44,959/- for medical expenses, Rs.5,000/- for transportation expenses, Rs.8,000/- for loss of income, Rs.1,000/- for damages to clothes and arrived at a total compensation of Rs.1,20,159/- rounded off to Rs.1,20,200/- with interest at the rate of 7.5% p.a. from the date of numbering of the petition i.e., 18.04.2016 till the date of realisation.

8.The Doctor has assessed the disability of the injured claimant as 25%, however, the Tribunal fixed the disability of the claimant as 10%. This Court vide order dated 29.01.2021 made in C.M.A.No.1986 of 2020 directed the appellant to appear before the Medical Board, however, the appellant has not subjected herself for assessment of disability before the Medical Board. Since the assessment of disability varies from Doctor to Doctor, this Court fix the disability of the claimant as 15% and at the relevant point of time Rs.5,000/- per

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percentage of disability was awarded. Hence, if Rs.5,000/- per percentage of disability is awarded, the amount awarded for disability works out to Rs.75,000/- [15% X Rs.5,000/- = Rs.75,000/-]. The amount awarded under the head medical expenses is confirmed.

9.The amount awarded under the heads pain and sufferings, loss of income, damages to clothes, attender charges, in the opinion of this Court are low and this Court is inclined to enhance the amount awarded under the said heads. Accordingly, the amount awarded for pain and sufferings is enhanced to Rs.25,000/- from Rs.10,000/-, the amount awarded for loss of income is enhanced to Rs.20,000/- from Rs.8,000/-, the amount awarded for damages to clothes is enhanced to Rs.2,000/- from Rs.1,000/- and the amount awarded for attender charges is enhanced to Rs.5,000/- from Rs.1,200/-. The amount awarded under the other heads, in the opinion of this Court are just and reasonable and the same are confirmed.

10.Accordingly, the compensation amount is re-assessed as follows:

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S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Disability	Rs. 30,000/-	Rs. 75,000/-
2.	Pain and sufferings	Rs. 10,000/-	Rs. 25,000/-
3.	Additional nourishment	Rs. 10,000/-	Rs. 10,000/-
4.	Attender charges	Rs. 1,200/-	Rs. 5,000/-
5.	Medical expenses	Rs. 49,959/-	Rs. 49,959/-
6.	Transportation expenses	Rs. 5,000/-	Rs. 5,000/-
7.	Loss of income	Rs. 8,000/-	Rs. 20,000/-
8.	Damages to clothes	Rs. 1,000/-	Rs. 2,000/-
9.	Loss of amenities	Rs. 10,000/-	Rs. 10,000/-
	Total	Rs.1,20,159/-	Rs.2,01,959/-

11.The appellant claimant is entitled to total compensation of Rs.2,01,959/- rounded off to Rs.2,01,960/- along with interest at the rate of 7.5% p.a. from the date of numbering of the petition i.e., 18.04.2016 till the date of realisation.

12.The civil miscellaneous appeal is partly allowed. The judgment and decree of the Motor Accidents Claims Tribunal (IV Small Causes Court) Chennai in M.C.O.P.No.2531 of 2016 dated 18.12.2019, is modified to the above extent only in respect of the quantum of compensation.

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13.The second respondent Insurance Company is directed to deposit the modified/ enhanced award amount before the Tribunal within a period of four weeks from the date of receipt of a copy of this judgment, less the amount if any, already deposited. On such deposit being made, the appellant/ claimant is permitted to withdraw the modified/ enhanced award amount, along with accrued interest and costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The appellant/ claimant shall not be entitled to any interest for the period of delay, if any, in filing the appeal. The appellant/ claimant is directed to pay the requisite Court fee for the enhanced compensation amount, if required.

14.The civil miscellaneous appeal is partly allowed. No costs.

11.12.2023

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To
1.The Motor Accident Claims Tribunal
(IV Small Causes Court) Chennai.

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