



C.M.A.No.3295 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.3295 of 2019
and
C.M.P.No.19182 of 2019

P.Gopal

... Appellant

Vs.

Lakshmi

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 25.03.2019 made in M.C.O.P.No.369 of 2013 on the file of the Motor Accidents Claims Tribunal, (Sub Judge at Ranipet, Vellore District).

For Appellant : Mr.V.Parivallal

For Respondent : No appearance

JUDGEMENT

Questioning the quantum of compensation awarded by the Motor Accidents Claims Tribunal, (Sub Judge at Ranipet, Vellore District) in M.C.O.P.No.369 of 2013 dated 25.03.2019, the present appeal has been filed.



C.M.A.No.3295 of 2019

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2. As per the claim petition, on 05.08.2013 at about 20.45 hours, the petitioner was standing on the Vellore to Chennai National Highways Road near Thanjavuran Colony over Bridge, at that time, a Hero Honda Shine two wheeler bearing Reg.No.TN-73-B-4966 came from the west to east direction, driven by its driver in a rash and negligent manner and hit the petitioner, as a result of which, the petitioner sustained grievous injuries all over her body. Thereafter, she filed a claim petition before the Tribunal claiming a sum of Rs.15,00,000/- as compensation for the injuries sustained by her in the said accident.

3. Before the Tribunal, the claimant examined herself as P.W.1 and examined the doctor as P.W.2 and marked 7 documents viz., Ex.P.1 to Ex.P.7(Series). On the side of the respondent, he examined himself as R.W.1 and no documents were marked. The Tribunal has marked the disability certificate as Ex.X.1. After adjudication, the Tribunal awarded a sum of Rs.1,85,800/- as compensation. Aggrieved by the same, the respondent is before this Court by way of this appeal.

4. The learned counsel appearing for the appellant submitted that, in the



absence of any proof with regard to income of the respondent, the Tribunal has awarded a sum of Rs.36,000/- towards loss of income by fixing a sum of Rs.6,000/- per month in favour of the respondent, which is wholly unsustainable and the same requires to be interfered with. Further, the Tribunal has awarded Rs.1,85,800/- towards medical expenses, in which the advance amount to the tune of Rs.41,000/- paid to the claimant was also calculated, which requires to be re-considered by this Court. Questioning the compensation awarded under these heads, the appellant has filed the present appeal.

5. Heard the learned counsel appearing for the appellant. Though notice was sent to the respondent, however, no one appeared on behalf of the respondent. Considering the pendency of this appeal, this Court is inclined to dispose of the appeal based on the available materials.

6. The factum and manner of the accident is not in dispute. Therefore, this Court is not entering into the said aspect. The only grievance of the appellant is with regard to the quantum of compensation awarded by the Tribunal. It is borne from the award passed by the Tribunal that, no document has been filed before the Tribunal to ascertain the income of the respondent/claimant, however, the Tribunal fixed the notional income of the



C.M.A.No.3295 of 2019

claimant at Rs.6,000/- and awarded a sum of Rs.36,000/- towards loss of income. It is also seen from the records that, though the claimant has taken treatment as in-patient for only three day, however, the Tribunal awarded Rs.36,000/- for six months, which is highly excessive and the same is liable to be interfered with. Hence, this Court reduces the amount under this head to a sum of Rs.18,000/-. Further, the advance amount of Rs.41,000/- paid to the claimant was also calculated towards medical expenses and which amount ought to have been deducted. However, the Tribunal has wrongly added the said advance amount and awarded a sum of Rs.1,12,800/- towards medical expenses. Therefore, the amount under this head stands reduced to a sum of Rs.71,800/- (Rs.1,12,800/- - Rs.41,000/-).

7. In view of the above, the compensation awarded by the Tribunal is modified as under :

<i>S. No.</i>	<i>Description</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
1	Loss of income	36,000/-	18,000/- (reduced)
2	Transport to Hospital	5,000/-	5,000/-
3	Extra Nourishment	5,000/-	5,000/-
4	Damage to Clothing and articles	2,000/-	2,000/-
5	Pain & Suffering	25,000/-	25,000/-
6	Medical expenses	1,12,800/-	71,800/-



C.M.A.No.3295 of 2019

<i>S. No.</i>	<i>Description</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
			(reduced)
	Total	1,85,800/-	1,26,800/-

8. Accordingly, the Civil Miscellaneous Appeal is partly allowed and the impugned award of the Tribunal is modified, reducing the compensation amount from **Rs.1,85,800/-** to **Rs.1,26,800/-**. It is informed by the learned counsel appearing for the appellant that the appellant has already deposited a sum of Rs.75,000/- before the Tribunal. Therefore, the appellant is directed to deposit the balance of the modified award amount to the credit of M.C.O.P.No.369 of 2013 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, within a period of four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the respondent/claimant through RTGS within a period of two (2) weeks thereafter. No costs. Consequently, the connected miscellaneous petition is closed.

16.11.2023

Index : Yes / No



C.M.A.No.3295 of 2019

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

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C.M.A.No.3295 of 2019

M.DHANDAPANI, J.,

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To

1.The Motor Accidents Claims Tribunal, (Sub Judge at Ranipet, Vellore District).

2.The Section Officer, V.R.Section, High Court, Madras.

C.M.A.No.3295 of 2019

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