



C.M.A(MD)No.459 of 2014

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 14.08.2023

Pronounced On : 12.09.2023

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.M.A(MD)No.459 of 2014

Anusuya : Appellant / Petitioner

Vs.

1.V.Pandi

2.The Branch Manager,
Cholamandalam,
MS.General Insurance Company Limited,
No.3 & 4, Dindigul Main Road,
Kalavasal, Near ENT Hospital,
Madurai. : Respondents / Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award dated 07.02.2014 passed in M.C.O.P.No.1525 of 2012 by the Motor Accident Claims Tribunal/ Chief Judicial Magistrate Court, Madurai.

For Appellant : Mr.A.Liakat Ali



C.M.A(MD)No.459 of 2014

For Respondents : Mr.S.Srinivasa Raghavan for R1.

: No Appearance, for R2.

J U D G M E N T

The Civil Miscellaneous Appeal is directed against the award dated 07.02.2014 passed in M.C.O.P.No.1525 of 2012 by the Motor Accident Claims Tribunal/ Chief Judicial Magistrate Court, Madurai.

2. The appellant/claimant, who was awarded with compensation of Rs.1,14,000/- with interest at 7.5% per annum for the disability suffered by her, consequent to an accident occurred on 06.05.2012, challenged the quantum of compensation awarded at by the Tribunal and claimed enhancement of the same.

3. The case of the claimant is that she has sustained fracture of Meta Carpel Bone and condyle humerous in the right hand coupled with severe loss of muscles; that the right hand has become completely disfigured; that the claimant could not use the right hand for all purposes;



C.M.A(MD)No.459 of 2014

WEB COPY

that the claimant has experienced severe physical pain and sufferings besides mental agony; that the claimant's matrimonial prospects have diminished due to the injury and that the claimant has suffered total permanent disability.

4. The appellant/claimant has examined herself as P.W.1 and in her chief examination affidavit, would reiterate the contentions raised in the claim petition with regard to the injuries suffered by her and the consequences therefor. The claimant has produced the copy of the accident register, inpatient note of Rajaji Government Hospital and disability certificate under Ex.P.2, Ex.P.3 and Ex.P.14, respectively. The medical file, maintained at the Rajaji Government Hospital for the claimant, has been produced exhibited as Ex.X.1. The claimant has also produced her photographs to show the injuries suffered by her under Ex.P.7.

5. It is evident from the medical records that the petitioner has suffered the following injuries.

(1) 5 x 2 x 1 cm lacerated wound 3rd web space in right hand



WEB COPY



C.M.A(MD)No.459 of 2014

- (2) 15 x 3 x 0.5 cm lacerated wound ulnar aspect of right elbow
- (3) comminuted fracture head of 3rd meta carpel bone right hand
- (4) compound Gr.II fracture lateral epi condyle of right hand humerus right elbow.

6. As rightly pointed out by the learned counsel for the appellant, the Assistant Surgeon of Government Rajaji Hospital, Madurai has given his opinion that the injury suffered III Meta Carpel Bone and lateral condyle of or humerous are grievous in nature. It is not in dispute that the claimant was admitted in the Government Rajaji Hospital on 06.05.2012 and was discharged on 22.05.2012.

7. It is evident from Ex.P.14 that P.W.5/Doctor after examining the claimant has issued the disability certificate fixing the disability at 40%. Since 3 % was included for pain and sufferings, the Tribunal has taken disability at 37% and by applying the percentage method has granted Rs.74,000/- for partial permanent disability. Since the claimant has not suffered any permanent disability nor functional disability, the question applying multiplier method does not arise at all. But, considering the



C.M.A(MD)No.459 of 2014

WEB COPY

nature of injuries including the bone injuries and the consequent disability suffered, this Court is inclined to grant Rs.3,500/- per percentage of disability and as such, the claimant is entitled to get Rs.3500 x 37 (Rs.1,29,500/-).

8. The Tribunal has awarded Rs.10,000/- for pain and sufferings; Rs.5,000/- for extra nourishment; Rs.5,000/- for transportation charges and Rs.5,000/- for medical expenses and Rs.15,000/- for future medical expenses. The Tribunal, taking note the fact that the claimant has to undergone further surgery for removal of implants, has rightly granted Rs.15,000- for future medical expenses.

9. Considering the nature of injuries and the period of inpatient treatment, consequent disability and other attending circumstances, this Court is inclined to grant Rs.20,000/- for pain and suffering; Rs.10,000/- for extra nourishment; Rs.10,000/- for medical expenses. Considering the above, the claimant is entitled to get Rs.1,89,500/-.



C.M.A(MD)No.459 of 2014

WEB COPY

Head of compensation	Amount awarded by the tribunal	Amount confirmed/modified by this Court
Disability	Rs.74,000/-	Rs.1,29,500/-
Pain and sufferings	Rs.10,000/-	Rs.30,000/-
Extra Nourishment	Rs.5,000/-	Rs.15,000/-
Transportation Charges	Rs.5,000/-	Rs.10,000/-
Medical Expenses	Rs.5,000/-	Rs.10,000/-
Future Medical Expenses	Rs.15,000/-	Rs.15,000/-
Total	Rs.1,14,000/-	Rs.2,09,500/-

10. In view of the above, the claimant entitled to get total compensation of **Rs.2,09,500/-**. Considering the other facts and circumstances, this Court further decides that the parties are to be directed to bear their own costs and the above points are answered accordingly.

11. In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation amount is enhanced from **Rs.1,14,000/-** to **Rs.2,09,500/-** with interest at 7.5% per annum. The second respondent/Insurance Company is directed to deposit the



C.M.A(MD)No.459 of 2014

WEB COPY

modified/enhanced award amount, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this order and on such deposit, the claimant is permitted to withdraw the award amount with accrued interest and costs, less amount already withdrawn, if any, on due application before the Tribunal. Parties are directed to bear their own costs. Consequently, connected Miscellaneous Petition is closed.

12.09.2023

NCC : Yes/No
Index : Yes : No
Internet : Yes : No
das

To

1.The Motor Accident Claims Tribunal/
Chief Judicial Magistrate Court, Madurai.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A(MD)No.459 of 2014

K.MURALI SHANKAR,J.

das

Pre-delivery order made in
C.M.A(MD)No.459 of 2014

12.09.2023