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C.M.A.No.2013 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2024

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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2013 of 2021

S.Gunasri
D/o.Sankar
No.3, Vinayagar Koil Street
Muthamizh Nagar, Kundumedu
Puthu Perungalathur
Chennai 600063

... Appellant

Vs.

1.E.Chandramouli
S/o.E.Krishnamurthy
No.8/17, Basha Street
Cholaimesu, Chennai 600094

2.National Insurance Co. Ltd.,
No.751, Anna Salai
Chennai 600002

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree in MCOP.No.6599 of 2015 dated 23.04.2019 on the file of the Motor Accident Claims Tribunal/(Special Sub Court No.1, Motor Accident Claims Petitions) Small Causes Court, Chennai.

For Appellant : Ms.Ramya V.Rao

For Respondents : Mr.D.Bhaskaran (for R2)



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JUDGMENT

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The Appeal has been filed against the Judgment and Decree made in MCOP.No.6599 of 2015 dated 23.04.2019 on the file of the Motor Accident Claims Tribunal/(Special Sub Court No.1, Motor Accident Claims Petitions) Small Causes Court, Chennai.

2.The claim Petitioner is the Appellant herein. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

3.The claim Petitioner filed MCOP.No.6599 of 2015, seeking compensation for the injuries sustained by her in a road traffic accident occurred on 28.02.2015. The Tribunal has awarded a sum of Rs.48,200/- with interest at the rate of 7.5%. Aggrieved against the same and seeking enhancement, she has preferred this Appeal.

4.The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the 1st Respondent's vehicle, insured with the



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2nd Respondent are not under challenge in this Appeal. Accordingly, the finding rendered by the trial Court that the accident taken place due to the rash and negligent driving of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent are hereby confirmed.

5.During the trial, on the side of the claim Petitioner, PW1 was examined, Ex.P1 to Ex.P.7 were marked and on the side of the Respondents, none was examined and no document was marked and Ex.C1/Disability Certificate issued by the Medical Board was marked as court document.

6.Heard the learned counsel for the claim Petitioner and learned counsel for the Insurance Company on the point of quantum of compensation.

7.On perusal of the oral evidence of PW1 coupled with Ex.P1/copy of FIR, Ex.P.2/OP Chit & Ex.P.3/Transport bills, I find that the FIR copy and OP chit, filed by the Petitioner as Ex.P1 and Ex.P2, respectively clearly proves the injuries sustained by the claim Petitioner due to the accident and the treatment taken by her. There is no surgical intervention on the Petitioner. To prove the



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disability caused to the Petitioner, she has appeared before the medical board.

After assessing the Petitioner's disability, the Medical Board has issued Ex.C1/disability certificate. The Medical Board considering the injuries has assessed the disability of the claim Petitioner as 5%. The claim Petitioner had sustained injury in left lower limb. Considering that only 5% disability was assessed by the Medical Board and the same must be partial and permanent only. This Court accepts the disability as 5% partial and permanent as per Ex.C1.

8.Taking into consideration the nature of the injuries sustained and the disability suffered by the claim Petitioner/Appellant and in the interest of justice, I am of the considered view that the amount awarded by the Tribunal has to be enhanced to Rs.75,000/-, as consolidated amount which is inclusive of interest.

9.In total, the claim Petitioner is entitled to a sum of Rs.75,000/- (Rupees seventy five thousand only).



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10. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the award amount from Rs.48,200/- to Rs.75,000/- to the extent indicated above.

(ii) the Insurance Company is directed to deposit the enhanced award amount before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) on such deposit being made, the claim Petitioner/Appellant is permitted to withdraw the entire enhanced award amount, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) the claim Petitioner/Appellant is directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

03.01.2024

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order



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RMT.TEEKAA RAMAN.J,

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To
The Presiding Officer
(Special Sub Court No.1, Motor Accident Claims Petitions)
Court of Small Causes
Chennai

C.M.A.No.2013 of 2021

Dated: 03.01.2024