



WEB COPY



CMA No.29 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.29 of 2024

Vasanthi

..Appellant/Petitioner

.Vs.

1.M.Lakshmanan

2.E.N.Guru

3.The New India Assurance Company Ltd.,
Auto tie up Branch
799-D, Mettupalayam Road
Near Shanmuga Theater
Flower Market
Coimbatore.

..Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to enhance the compensation amount and fix the liability on the 2nd respondent awarded in the judgment and decree dated 25.3.2019 made in MCOP No.1314 of 2014 on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate, Tiruppur.

For Appellant : Mr.JR.Prabakar

For Respondents : Mrs.R.Sreevidhya
for R3

JUDGMENT

This Civil Miscellaneous Appeal has been filed challenging the award passed by the Tribunal in MCOP No.1314 of 2014 dated 25.3.2019.



CMA No.29 of 2024

2. On 9.8.2014 at about 5.30 am., the petitioner and other ladies were walking on the left side of the Goundampalayam Road Morattuppalayam Road and at that point of time, the 1st respondent had driven the moped in a rash and negligent manner and had dashed on the petitioner resulting in the petitioner sustaining grievous head injuries with fracture to the skull bone. The petitioner was admitted in the hospital and she took treatment as an inpatient from 9.8.2014 to 21.8.2014 and from 20.9.2014 to 22.9.2014. The petitioner was assessed to have suffered 25% permanent disability. It was under these circumstances, the claim petition came to be filed before the Motor Accidents Claims Tribunal.

3. The Tribunal on considering the facts and circumstances of the case and on appreciation of the oral and documentary evidence, came to a conclusion that the accident had taken place due to the negligence on the part of the offending driver. The Tribunal fixed the total compensation at Rs.7,16,780/- out of which, a sum of Rs.4,16,780/- was fixed under the head of pecuniary damages and a sum of Rs.3,00,000/- was fixed under the head of non-pecuniary damages.

4. The claimant has filed this appeal seeking for enhancement on the ground that the Tribunal ought to have adopted the multiplier method considering the nature of injury that was sustained by the appellant. That apart the Tribunal had not taken into consideration the actual earnings of the petitioner.



CMA No.29 of 2024

5.This Court has carefully considered the submissions made on either side and the materials available on record.

6.On carefully considering the reasoning that has been assigned by the Tribunal, it is seen that a fair and just compensation has been fixed by the Tribunal. It is not in every case where a person suffers a permanent disability, the multiplier method must be followed. Such a contingency arises only in a case where a claimant is able to prove the functional disability. No such functional disability has been proved in the present case.

7.The Tribunal has taken into consideration the head injuries sustained by the appellant and that is the reason why the Tribunal has fixed non-pecuniary damages at a higher side. This compensation sufficiently takes care of the grievance expressed by the appellant. This Court does not find any ground to interfere with the order passed by the Tribunal.

In the result, this Civil Miscellaneous Appeal is dismissed. No costs.

01.04.2024

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



WEB COPY



CMA No.29 of 2024

N. ANAND VENKATESH., J

KP

To

- 1.The New India Assurance Company Ltd
Auto tie up Branch
799-D, Mettupalayam Road
Near Shanmuga Theater
Flower Market
Coimbatore.
- 2.Motor Accident Claims Tribunal/
Chief Judicial Magistrate,
Tiruppur.

Copy to:-

The Section Officer
VR Section, High Court,
Chennai.

CMA No.29 of 2024

01.04.2024