

(2018) 02 MAD CK 0230
In the Madras High Court
Case No : 2592 of 2016

M.Annapoorani

APPELLANT

Vs

Anand Muthukumar

RESPONDENT

Date of Decision : 22-02-2018

Acts Referred:

Citation : (2018) 02 MAD CK 0230

Hon'ble Judges : S.Baskaran

Bench : Single Bench

Advocate : T.G.Balachandran, R.Sreevidhya

Final Decision : Allowed

Judgement

1. This Civil Miscellaneous Appeal is filed by the appellant/claimant, challenging the judgment and decree dated 11.03.2016 made in",,,

M.C.O.P.No.2902 of 2011 on the file of Motor Accident Claims Tribunal, V Judge, Small Causes Court, Chennai.",,,

2. For the sake of convenience, the parties are referred to as per their litigative status before the Tribunal. The case of the petitioner is that on",,,

25.04.2011 at 9.40 a.m., when the petitioner was going in her scooty bearing Reg.No.TN-18-1444 towards Tambaram, in Maduravoyal to",,,

Tambaram Bypass Road, near Thiruneermalai Srinivasapuram, a Honda City Car bearing Reg.No.TN-22-BM-2436, belonging to the 1st",,,

respondent and insured with the 2nd respondent, came behind the Scooty and driven in a rash and negligent manner, hit the petitioner, resulting in",,,

the Petitioner sustaining multiple injuries including head injury to her. The Petitioner, in her claim Petition, averred that at the time of the accident,",,

she was aged 25 years and by working as Senior Software Engineer was earning

Rs.50,000/- per month. Due to the injury suffered by her, she",,,
 could not attend to her work as she used to and hence suffered loss of income. The Petitioner sought total compensation of Rs.10,00,000/- from",,,
 the respondents, who are the owner and insurer of the offending vehicle.",,
 3. On the other hand, opposing the petition, by filing counter, the 2nd respondent/Insurance Company denied the claim of the Petitioner that she",,,
 was injured in the accident involving Honda City car bearing Reg.No.TN-22-BM-2436. The 2nd respondent denied the alleged traffic accident",,,
 on 25.04.2011 and also stated that the policy issued for the period 03.11.2010 to 02.11.2011 does not cover the accident. The 2nd respondent",,,
 states that as there was no policy coverage on the date of the accident, they are not liable to pay any compensation. The 2nd respondent also",,,
 denied the involvement of the said car in the accident as claimed by the injured petitioner. The claim of the Petitioner about her age, avocation and",,,
 income is also disputed. The Petitioner's claim that the accident occurred due to the negligence of the 1st respondent car driver is denied. The",,,
 claim of the petitioner is very exorbitant. Thus, the 2nd respondent sought for dismissal of the Petition.",,
 4. Before the Tribunal, the Petitioner examined herself as P.W.1 and the medical expert as P.W.2. The Petitioner also produced Ex.P.1 to",,,
 Ex.P.20 documents to prove her claim. On the side of the respondents, neither oral nor documentary evidence was let in. The Tribunal, on the",,,
 basis of available materials placed before it, found that the 1st respondent car driver's negligence alone caused the accident and held that the",,,
 respondents are jointly and severally liable to pay the compensation to the Petitioner. Further, the Tribunal, by discussing the age, avocation and",,,
 other aspects, granted 5,12,500/- to the Petitioners for the injuries suffered by her. Being not satisfied with the quantum of the Award, the",,,
 Petitioner/injured claimant has come forward with the present Appeal.,,,
 5. The learned counsel for the Appellant/Petitioner contended that the Tribunal fixed the disability very low and also awarded less amount for the",,,
 partial permanent disability suffered by her. The Tribunal also failed to consider the fact that the petitioner's marital life has been affected due to the",,,
 injury suffered by her. The amount awarded under various heads is very nominal. The counsel for the Appellant/Petitioner seeks to enhance the",,,

quantum of award by allowing this appeal.,,,

6. Per contra, the learned counsel for the 2nd respondent/Insurance Company contends that the Tribunal has correctly appreciated the evidence",,,

and other documents placed before it and awarded just and fair compensation to the Petitioner and therefore, there is no need of interference.",,,

Hence, the 2nd respondent seeks dismissal of the Appeal.",,,

7. The Petitioner who is a Senior Software Engineer by Profession deposed that on 25.04.2011, while she was proceeding in her two wheeler, the",,,

Honda City Car bearing Reg.No.TN-22-BM-2436 came at high speed and dashed against her. She also produced copy of FIR registered against,,,

the driver of the said car as Ex.P.1 and the Rough Sketch of the accident spot as Ex.P.2. It is clear from the oral evidence of P.W.1 and Ex.P.1,,,

FIR that the 1st respondent car driver alone caused the accident, due to his negligence. To disprove the claim of the Petitioner, the 1st respondent",,,

did not let in any oral or documentary evidence. The driver of the 1st respondent car has not come forward to depose before the court as to the,,,

manner in which the accident took place. Nothing is extracted in the cross examination of P.W.1 to discredit the Petitioner's version of accident.,,,

The Petitioner has also produced copy of her Driving Licence in Ex.P.8. It is therefore clear that the petitioner, who is entitled to ride two wheeler",,,

and possessing valid driving licence met with the accident and only due to the rash and negligent driving of the 1st respondent vehicle driver, the",,,

accident occurred.,,,

8. The Petitioner states that she was aged 25 years and was employed in the Private Software Company, earning Rs.50,000/- per month. The",,,

Petitioner produced Ex.P.16-Qualification Certificates, Ex.P.7-Pay Slips, Ex.P.12-TDS details under Form 16A and Ex.P.14-Tax Assessment",,,

Form 16 and Ex.P.15-Xerox copy of PAN Card. While the Petition averments state that her monthly income is Rs.50,000/-, in her oral evidence,",,,

Petitioner as P.W.1 stated that she was getting Rs.95,000/- per month and she was not able to attend to her work for three months after the",,,

accident. It is clear from Ex.P.7 Pay Slips that the Petitioner received Rs.95,461/- for the month of March 2011. As stated above, the Petitioner",,,

has produced her Tax Assessment form and TDS Details. On the basis of the said materials, the Tribunal fixed the monthly income of the Petitioner",,,

at Rs.90,000/-, which in the considered opinion of this court, is just and proper.",,,

9. The Petitioner stated that she suffered injury in her head, abrasion in the left foot and other multiple injuries. She further stated that she",,,

underwent treatment as inpatient in Life Line Multi Speciality Hospital from 25.04.2011 to 03.05.2011 and thereafter, took treatment as out-",,,

patient. She produced her discharge summary as Ex.P.3, Taking into consideration the nature of injuries suffered by her and the claim of the",,,

Petitioner that she was unable to work for three months and suffered loss of income, the Tribunal calculated the loss of income for a period of 3",,,

months as treatment period and awarded Rs.2,70,000/-(Rs.90,000/- x 3 = Rs.2,70,000/-) under the head loss of earning during the period of",,,

treatment, which, in the considered view of this court is also just and acceptable.",,,

10. It is stated by the Petitioner in her claim Petition that she suffered multiple grievous injuries. P.W.2 doctor who assessed her disability while",,,

deposing before the Tribunal stated about the head injury/Temporal Lobe contusion on left side suffered by the Petitioner. P.W.2 also fixed the",,,

disability at 45% under disability certificate Ex.P.17. Further, the Petitioner produced CT Scan report as well as report of Psychologist under",,,

Sl.No.,Head,Amount Awarded by the Tribunal,Amount awarded by this Court

1,"Transportation, nourishing food, and miscellaneous expenditure","Rs.25,000/-","Rs.25,000/-

2,Attender charges,"Rs.1,800/-","Rs. 5,000/-

3,Medical expenses,"Rs.11,096.90","Rs. 20,000/-

4,Disability,"Rs.90,000/-","Rs.1,20,000/-

5,Loss of earning during the period of treatment,"Rs.2,70,000/-","Rs.2,70,000/-

6,"Damages for pain, suffering and trauma","Rs.50,000/-","Rs.75,000/-

7,Damages for vehicle,"Rs.14,237/-","Rs.15,000/-

8.,Loss of amenities,"Rs.50,000/-","Rs.50,000/-

9.,Loss of marital life,---,"Rs.20,000/-

,Total,"5,12,500/-","Rs.6,00,000/-