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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1152 of 2021

Kannammal

.. Appellant/Claimant

Vs.

1. Diwakar Kumar Singh
2. Indian Vehicle Carrier Private Limited,
Bharat Garage IBP Pet Pump, Majipanda,
Vasai, Dt Thange, Vasa.
3. The United India Insurance Company Limited,
Micro Officer, B/27, (Basement),
Ashoka Super Market,
S.V.Road, Goregaon,
Mumbai - 400 062, Maharastra State.
4. The United India Insurance Company Limited,
1170, Muthiah Complex, Mettur Road,
Erode - 638 011.

5.Jagadesan

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 02.03.2020 made in M.C.O.P. No.581 of 2018, on the file of the Special Sub Court, (Motor Accidents Claims Tribunal), Erode.

For Appellant : Mr.T.S.Arthanareeswaran
for Mr.C.Paraneedharan

For Respondents : M/s.I.Malar (For R4)



J U D G M E N T

(The matter is heard through "Video Conferencing/Hybrid mode")

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This appeal has been filed for enhancement of the compensation granted by the Tribunal in the award dated 02.03.2020 made in M.C.O.P. No.581 of 2018, on the file of the Special Sub Court, (Motor Accidents Claims Tribunal), Erode.

2.By consent of the learned counsel appearing for the appellant as well as the 4th respondent, the appeal is taken up for final disposal at the admission stage itself.

3.The appellant/claimant filed M.C.O.P.No.581 of 2018, on the file of the Special Sub Court, (Motor Accidents Claims Tribunal), Erode, claiming a sum of Rs.15,00,000/- as compensation for the injuries sustained by her in the accident that took place on 06.12.2017.

4.The Tribunal considering the pleadings, oral and documentary evidence, held that accident occurred due to rash and negligent driving by 1st respondent, driver of the Lorry owned by the 2nd respondent and directed the respondents 3 and 4 as insurer of the vehicle to pay a sum of Rs.1,68,000/- as compensation to the appellant.

5.Not being satisfied with the amounts awarded by the Tribunal in the award dated 02.03.2020 made in M.C.O.P. No.581 of 2018, the appellant has come out with the present appeal.

6.The learned counsel appearing for the appellant contended that in the accident, the appellant sustained grievous injuries and fractures and has taken first-aid treatment at Government Hospital, Komarapalayam and at Ganga Medical Centre and Hospital, Coimbatore as in-patient from 07.12.2017 to 12.12.2017, for a period of 6 days. During treatment, the appellant underwent surgeries. The Medical Board certified that the appellant suffered 10% disability. Due to the injuries sustained in the accident, she could not continue her work as she was doing earlier and lost her entire earning power. The amounts awarded by the Tribunal towards loss of income, attendant charges, extra nourishment and disability are meagre. The Tribunal failed to award any amount towards loss of amenities. The total compensation awarded by the Tribunal under different heads are meagre and prayed for enhancement of the compensation.

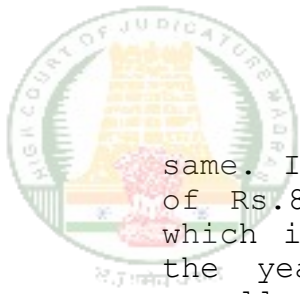


7. Per contra, the learned counsel appearing for the 4th respondent-Insurance Company submitted that considering the nature of injuries suffered and period of treatment taken by the appellant, the Tribunal has awarded compensation under different heads, which is not meagre. The appellant has not made out any case for enhancement of the compensation and prayed for dismissal of the appeal.

8. Heard the learned counsel appearing for the appellant as well as the 4th respondent-Insurance Company and perused the materials available on record.

9. It is the case of the appellant that in the accident, she suffered grievous injuries and fractures and has taken first-aid treatment at Government Hospital, Komarapalayam and later, at Ganga Medical Centre and Hospital, Coimbatore as in-patient from 07.12.2017 to 12.12.2017, for a period of 6 days. She has marked Ex.P8- discharge summary to prove the same. She was referred to the Medical Board. The Medical Board examined the appellant and certified that the appellant suffered 10% disability. The Tribunal awarded a sum of Rs.30,000/- towards disability at the rate of Rs.3,000/- per percentage for 10% disability. The same is meagre. This Court by the judgment reported in 2020 (1) TN MAC 617 [M. Chinnathambi Vs. S.Deepa and another], fixed a sum of Rs.4,000/- per percentage of disability for the accident occurred in the year 2014 & 2015 and a sum of Rs.5,000/- per percentage of disability for the accident occurred from the year 2016 onwards, due to raise in cost of living. In the present case, the accident is of the year 2017. In view of the same, a sum of Rs.5,000/- is awarded per percentage of disability. Hence, the amount awarded by the Tribunal towards disability is enhanced to Rs.50,000/- (Rs.5,000/- x 10%), at the rate of Rs.5,000/- per percentage for 10% disability. Considering the nature of injuries and period of treatment taken by the appellant, the amounts awarded by the Tribunal towards attendant charges and extra nourishment are meagre and the same are enhanced to Rs.10,000/- each. The Tribunal failed to award any amount towards medical expenses and future medical expenses of the appellant. The appellant has not filed any medical bills to substantiate the amounts spent towards medical expenses. Considering Ex.P7 - wound certificate and nature of injuries, it is evident that the appellant would have spent some amount towards medical expenses and she needs future medical treatment. Hence, a sum of Rs.10,000/- each is awarded towards medical expenses and future medical expenses.

10. The appellant contended that at the time of accident, she was working as a Tailor and was earning a sum of Rs.24,000/- per month. She did not file any material document to prove the



same. In the absence of any evidence, the Tribunal fixed a sum of Rs.8,000/- per month as notional income of the appellant, which is meagre. The accident is of the year 2017. Considering the year of accident and the nature of work done by the appellant, a sum of Rs.14,000/- per month is fixed as the notional income of the appellant. Due to the injuries sustained in the accident, she would not have worked atleast for a period of six months. Hence, the amounts awarded by the Tribunal towards loss of income is enhanced to Rs.84,000/- [Rs.14,000/- x 6 months]. Considering the nature of injuries and disability, this Court is of the considered view that the amounts awarded by the Tribunal under other heads are just and reasonable and hence, the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of earnings	48,000/-	84,000/-	Enhanced
2.	Transportation	12,000/-	12,000/-	Confirmed
3.	Pain and sufferings	60,000/-	60,000/-	Confirmed
4.	Extra nourishment	8,000/-	10,000/-	Enhanced
5.	Attendant charges	8,000/-	10,000/-	Enhanced
6.	Damage to clothes	2,000/-	2,000/-	Confirmed
7.	Permanent disability & Loss of amenities	30,000/-	50,000/-	Enhanced
8.	Medical expenses	-	10,000/-	Granted
9.	Future medical expenses	-	10,000/-	Granted
	Total	1,68,000/-	2,48,000/-	Enhanced by Rs.80,000/-

11. In the result, the appeal is partly allowed and the amount awarded by the Tribunal at Rs.1,68,000/- is enhanced to Rs.2,48,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The respondents 3 and 4 are directed to deposit the award amount, now determined by this Court, along with interest and costs, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.581 of 2018. On such deposit, the appellant is permitted to withdraw the award amount, now determined by this Court, along with interest and



costs, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. No costs.

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Sd/-
Assistant Registrar (Ad-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Special Subordinate Judge,
(Motor Accidents Claims Tribunal),
Erode.
2. The Section Officer,
VR Section,
High Court, Madras.

+2ccs to Mr.T.S.Arthanareeswaran, Advocate, S.R.No.21645

+1cc to M/s.I.Malar, Advocate, S.R.No.21476

C.M.A.No.1152 of 2021

LN (CO)
SU (08/11/2021)