



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2021

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.1378 of 2020

Sagunthala

...Appellant/Petitioner

vs.

1. Manikandan
2. Amavasan
3. Venkateswaran
4. The Iffco Tokio General Insurance Co. Ltd.,
138/2, LMR Shopping Arcade, II Floor,
Opp to MGM Theatre, Salem Main Road,
Namakkal District.
5. The Iffco Tokio General Insurance Co., Ltd.,
#148, Vinayaga Complex, II Floor,
Opp. Vinayaka Palace, Perundurai Road,
Palayapalayam, Erode - 638 011.

...Respondents/Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 22.01.2020 made in M.C.O.P.No.538 of 2018 on the file of the Motor Accidents Claims Tribunal/Special Subordinate Judge Court, Erode.

For Appellant :Mr.T.S.Arthanareeswaran

For Respondents 1 to 3 :No appearance

For Respondents 4 and 5 :Mrs.R.Rathna Thara

J U D G M E N T

Aggrieved by the judgment and decree dated 22.01.2020 passed by the Motor Accidents Claims Tribunal/Special Subordinate Court, Erode in M.C.O.P.No.538 of 2018, the injured Claimant has come up with this Civil Miscellaneous Appeal, seeking enhancement of compensation.



2. According to the Appellant/Claimant, on 09.03.2018, when she was driving a motor cycle bearing Registration No.TN-34-S-6383 (TVS XL Super Heavy Duty Moped), the 1st Respondent herein, who rode the Motor cycle bearing Registration No.TN-30 U-0694, came on the wrong side of the road in a rash and negligent manner and hit her motor cyle, due to which, she sustained grievous injuries. Before the Tribunal, she filed a Claim Petition claiming a sum of Rs.25,00,000/- as compensation for the injuries.

3. Before the Tribunal, on the side of the Claimant, P.Ws.1 and 2 were examined and Exs.P1 to P11 were marked. On the side of the Respondents, R.Ws.1 and 2 was examined and Exs.R1 to R7 were marked. On the side of the Court, Ex.C1 was marked.

4. The Tribunal, on a consideration of the entire oral and documentary evidence, awarded a sum of Rs.6,09,000/- as compensation to the Claimant, under the following heads:

Head	Amount (Rs.)
Loss of Income	48,000.00
Transportation expenses	12,000.00
Extra Nourishment	10,000.00
Attender Charges	10,000.00
Future Medical Expenses	---
Damages to Clothes and Articles	2,000.00
Medical Expenses	3,87,000.00
Pain and Suffering	80,000.00
Permanent disability & Loss of earning capacity	60,000.00
Total	6,09,000.00

5. Learned counsel for the Appellant/Claimant contended that, the Tribunal failed to note that, the Claimant was hospitalized for 14 days from 09.03.2018 to 22.03.2018 as inpatient and it ought to have awarded more compensation under the heads, 'pain and suffering', 'loss of income', 'Attender Charges', 'Extra Nourishment', and 'Transport Expenses'. He further contended that, the Tribunal erred in not awarding any amount towards 'loss of amenities' and 'future medical expenses'.



WEB COPY

Head	Amount awarded by the Tribunal (Rs.)	Amount modified by this Court (Rs.)
Loss of Income	48,000.00	64,000.00
Transportation expenses	12,000.00	12,000.00
Extra Nourishment	10,000.00	20,000.00
Attender Charges	10,000.00	20,000.00
Future Medical Expenses	---	25,000.00
Damages to Clothes and Articles	2,000.00	2,000.00
Medical Expenses	3,87,000.00	3,87,000.00
Pain and Suffering	80,000.00	80,000.00
Permanent disability & Loss of earning capacity	60,000.00	1,00,000.00
Total	6,09,000.00	7,10,000.00

12. In fine, compensation of a sum of Rs.6,09,000/- awarded by the Tribunal is enhanced to a sum of Rs.7,10,000/- (Rupees Seven Lakhs Ten Thousand only). The Insurance Company is directed to deposit the modified Award amount along with interest at 7.5% per annum from the date of filing the Claim Petition till the date of deposit, less the amount already deposited, if any, to the credit of M.C.O.P.No.538 of 2018 on the file of the Motor Accidents Claims Tribunal (Special Subordinate Court), Erode, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the Award amount directly to the Bank Account of the Appellant/Claimant through RTGS, within a period of two weeks.

The Civil Miscellaneous Appeal is ordered accordingly.
No costs.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar



WEB COPY

To:

1. The Motor Accidents Claims Tribunal
Special Subordinate Court, Erode.
2. The Section Officer,
V.R. Section, High Court of Madras,
Chennai 600 104.

+2 Ccs to Mr.T.S.Arthanareeswaran, Advocate sr 40178.

C.M.A. No.1378 of 2020

AKII (CO)
SP(30/12/2021)