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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.NO.3851 OF 2019

Sasikala
W/o.Patchaiappan

... Petitioner / Appellant

Vs.

1. Senthamiz Selvan
S/o.Dhandapani S.I.

2. The Divisional Manager
New India Assurance Co. Ltd.
No.179, 3rd Floor, Jawaharlal Nehru Street,
Puducherry

... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 to set aside the Decree and Judgment dated 24.08.2018 made in M.A.C.T.O.P.No.868 of 2017 on the file of the Motor Accident Claims Tribunal, Additional Sub Judge, Puducherry.

For Petitioner	: Mr.T.Ananthasekar
For Respondent-1	: NA
For Respondent-2	: Mr.G.Anandan

JUDGMENT

The claimant is the appellant in this appeal. She has filed this appeal for enhancement of compensation awarded by the tribunal in M.A.C.T.O.P.No.868 of 2017.

2. By the impugned Judgement and decree, the tribunal has awarded a sum of Rs.4,60,055/- as detailed below:-



S.No.	Heads of Compensation	Amount Awarded by the Tribunal
1	Pain and Sufferings	Rs.30,000/-
2	Medical Expenses	Rs.3,62,555/-
3	Loss of Income	Rs.22,500/-
4	Rich and nutritious food	Rs.25,000/-
5	Attender charges	Rs.10,000/-
6	Transport expenses	Rs.10,000/-
7	Permanent disability	- - -
	Total	Rs.4,60,055/-

3. The learned Counsel for the appellant/claimant submits that the tribunal has awarded a very low amount towards pain and sufferings considering the nature of injury suffered by the appellant/claimant and has not awarded any amount towards injuries and towards loss of amenities. The learned Counsel further submits that bulk of the amount awarded by the tribunal towards medical expenses incurred amounting to Rs.3,62,555/-. Therefore, he prays for enhancement of compensation.

4. Defending the impugned Judgement and decree, the learned Counsel for the 2nd respondent/Insurance Company submits that the tribunal has awarded a Just compensation and therefore, prays for dismissal of the appeal and for confirmation of the award amount.

5. I have heard the arguments advanced by the learned counsels appearing for the petitioner as well as the 2nd respondent/Insurance Company and perused the exhibits which came to be marked by the tribunal.

6. There is no dispute regarding nature of injuries suffered by the appellant/claimant and the injuries are as under;

1. Head injury
2. Traumatic Brain injury
3. Multiple facial bone fracture
4. Subcutaneous hematoma



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5. Laceration over occipital region
6. Multiple abrasion over face and left forearm
7. Sutured laceration just below both eyebrows extending upto temporal regio.
8. Sutured laceration in chin on the right side
9. Sutured laceration in right frontal region.
10. TBI-Concussion
11. fracture of radius and ulna,
12. Fracture of Maxillary, Mandible
13. Fracture of shoulder
14. Fracture of forehead

7. Even though there is no permanent disability due to the accident, considering the nature of injuries suffered by the appellant/claimant and the hardship she had undergone, I am inclined to award a sum of Rs.50,000/- towards injuries suffered by the appellant/claimant and enhance the amount awarded by the tribunal towards pain and sufferings by another sum of Rs.20,000/-.

8. The tribunal has not awarded any amount towards loss of amenities. Therefore, another sum of Rs.15,000/- is awarded towards loss of amenities due to the injuries suffered by the appellant/claimant.

9. In the result, the total compensation awarded by the tribunal i.e. Rs.4,60,055/- is enhanced as Rs.5,45,055/- (Rs.4,60,055/- + Rs.85,000/-) as follows:-

S.No.	Heads of Compensation	Enhanced Award Amount
1	Injuries	Rs. 50,000/-
2	Loss of Amenities	Rs. 15,000/-
3	Pain and Sufferings	Rs. 50,000/-
4	Medical Expenses	Rs.3,62,555/-
5	Loss of Income	Rs. 22,500/-
6	Rich and nutritious food	Rs. 25,000/-
7	Attender charges	Rs. 10,000/-
8	Transport expenses	Rs. 10,000/-
	Total	Rs.5,45,055/-



10. The 2nd respondent/Insurance Company is therefore directed to deposit the enhanced amount of compensation of Rs.5,45,055/- together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of such deposit, except the period of delay in filing this appeal, less any amount already deposited by it, within a period of six weeks from the date of receipt of a copy of this Judgment.

11. On such deposit being made by the 2nd respondent/Insurance Company, the appellant/claimant is permitted to withdraw the amount together with interest accrued thereon, less any amount already withdrawn, by filing appropriate application before the Tribunal.

12. It is noticed that this Civil Miscellaneous Appeal has been filed belatedly with delay of 265 days. Therefore, no interest shall be paid on the enhanced amount of compensation during the delay of 265 days alone.

13. This Civil Miscellaneous Appeal stands Partly Allowed with the above observations. No costs.

Sd/-
Assistant Registrar(ADMN III)

// True Copy //

Sub Assistant Registrar

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To:

1. The Motor Accident Claims Tribunal,
Additional Sub Judge, Puducherry

2. The V.R.Section,
Madras High Court, Madras.

+1cc to Mr.T.Ananthasekar, Advocate, S.R.No.28575

+1cc to Mr.G.Anandan, Advocate, S.R.No.28573

C.M.A.No.3851 of 2019

VSN-II(CO)
RLP(12/11/2021)