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C.M.A.No.3571 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T.ASHA

C.M.A.No.3571 of 2014

D.Kokila

... Appellant

vs.

1.M/s.Bookcraft Publishing Services India Pvt. Ltd.,
No.10/241, 1st Floor,
St.Marys Road, Mandaveli,
Chennai-600 028.

2. Royal Sundaram Alliance Insurance Co. Ltd.,
No.21, Patullos Road,
Chennai-600 002.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the Judgment and Decree in M.C.O.P.No.3680 of 2012 dated 08.04.2014 on the file of IV Judge, Small Causes Court (Motor Accident Claims Tribunal), Chennai.

For Appellant	: Mr.K.A.Ravindran
For Respondents	: Ms.Harini, for M/s.N.Vijayaraghavan [R2] R1 – Ex-parte



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JUDGMENT

The claimant before the Motor Accident Claims Tribunal in M.C.O.P.No.3680 of 2012 has filed the above appeal seeking enhancement of the award granted by the tribunal below. She had sustained injuries in a road accident on 04.09.2011 while she was walking along the Jan janikhan Road, Triplicane in a south to north direction. The driver of the car bearing Reg.No.TN-06-C-7673 belonging to the 1st respondent had driven the vehicle in a rash and negligent manner and hit the petitioner on the rear, as a result of which the petitioner sustained grievous injuries and therefore, the petitioner claimed compensation of Rs.4,00,000/-.

2. It is the case of the petitioner that she had suffered fracture in three places on her right leg above the ankle. To prove the same, she had produced Ex.P5 Discharge Summary issued by Government Royapettah Hospital which shows that she had sustained trimalleolar fracture of right ankle and was treated as inpatient from 04.09.2011 to 27.09.2011 and undergone surgery thereby ORIF. The Doctor has been examined as PW3 though he had assessed the disability at 55%, he has deposed that the injury sustained by her was not a scheduled injury.



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3. The Tribunal has assessed the disability at 50% and had adopted a notional income of Rs.40,000/- per annum and ultimately awarded a sum of Rs.73,333/- towards pecuniary loss. Though she has been admitted in the hospital for about 23 days, and had undergone a surgery, only an amount of Rs.5,000/- was granted under the head of pain and sufferings and Rs.30,000/- was granted towards loss of income. The learned counsel for the claimant would also submit that the Tribunal ought to have adopted a higher notional income and increased the pecuniary loss.

4. The learned counsel for the insurance company would however submit that the Tribunal has rightly assessed the compensation and there was no necessity to enhance the same.

5. Heard the learned counsel on either side and perused the materials on record.

6. The amount granted under the head of pecuniary loss appears to be reasonable. However, taking into consideration the period of hospitalisation and the injuries sustained, the amount awarded under the head of pain and



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sufferings is increased to Rs.15,000/- and loss of income to Rs.40,000/-. In

all other aspects, the award of the Tribunal appears to be very reasonable

and I see no reason to interfere with the same. Therefore, the Compensation

awarded by the Tribunal is reworked as below:

<i>S.No.</i>	<i>Description</i>	<i>Amount awarded by Tribunal</i>	<i>Amount awarded by this Court</i>	<i>Award confirmed or enhanced or granted or reduced</i>
1	Pecuniary Loss	Rs. 73,333/-	Rs.73,333/-	Confirmed
2	Loss of Income	Rs. 30,000/-	Rs.40,000/-	Enhanced
3	Medical Expenses	Rs. 10,000/-	Rs.10,000/-	Confirmed
4	Pain and Sufferings	Rs. 5,000/-	Rs.15,000/-	Enhanced
	TOTAL	Rs.1,18,333/-	Rs.1,38,333/-	
	Rounded off to	Rs.1,18,400/-	Rs.1,38,400/-	

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation of Rs.1,18,400/- awarded by the Tribunal is hereby Enhanced to a sum of **Rs.1,38,400/-**. Therefore, the 2nd respondent / Insurance Company is directed to deposit the enhanced amount of **Rs.1,38,400/-** to the credit of M.C.O.P.No.3680 of 2012 on the file of the Motor Accident Claims Tribunal, IV Judge, Small Causes Court, Chennai,



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together with interest @ 7.5% per annum from the date of claim petition till

the date of deposit and costs, less, the amount, if any already deposited,

within a period of four weeks from the date of receipt of a copy of this

Judgement. On such deposit being made, the claimant is permitted to

withdraw the amount now determined by this Court, as apportioned by the

Tribunal, along with interest and costs, after adjusting the amount, if any

already withdrawn, by filing necessary application before the Tribunal. The

claimant is directed to pay the Court fee for the enhanced compensation

amount, if required. The Tribunal below shall not disburse the enhanced

amount till such time as the certified copy showing proof of payment of

Court fee has been produced by the claimant. No costs.

31.10.2022

Index : Yes/No

Speaking / Non-speaking order

ssn

To:

1. The Motor Accident Claims Tribunal,
IV Judge, Small Causes Court,
Chennai.

2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.



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P.T.ASHA, J.,

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