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C.M.A.No.3684 of 2014

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 26.10.2022

CORAM:

**THE HONOURABLE Ms. JUSTICE P.T. ASHA**

**C.M.A.No.3684 of 2014**

Malliga

... Appellant/Petitioner

Vs.

1.T.Ashokkumar

2.IFFCO Tokio General Insurance Company Limited

rep. By its Branch Manager,  
No.28, North Ushman Road,  
Srinagar,  
Chennai.

... Respondents/Respondents

**Prayer:** Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act against the Award and Decree dated 13.08.2012 in M.C.O.P.No.247 of 2018 on the file of the learned Judge, Motor Accidents Claims Tribunal, Arni, Thiruvannamalai District.

For Appellant : Mr.P.Satheesh Kumar

For Respondents : Mr.S.Anbazhagan for R1  
Mr.C.R.Krishnamoorthy for R2



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C.M.A.No.3684 of 2014

## **JUDGMENT**

The claimant has filed the above appeal seeking an enhancement of the Award passed by the learned Judge, Motor Accidents Claims Tribunal, Arni, Thiruvannamalai District, in M.C.O.P.No.247 of 2018.

2.The Tribunal had awarded a sum of Rs.68,440/- for the injuries sustained by the petitioner/appellant in a road accident. The petitioner's disability has been assessed as 35%, however, there is nothing to show that the petitioner has sustained any permanent incapability or loss to her earning power. The Tribunal has awarded a sum of Rs.55,440/- under this head which appears to be reasonable, considering the fact that the accident had taken place in the year 2008. The petitioner/appellant was an inpatient in the Government VMC Hospital, Vellore, just for five days and no surgery or procedure has been undergone by her. The nature of injuries are multiple injuries



C.M.A.No.3684 of 2014

over the whole body and on the left leg, left shoulder, fracture of maxillary bone and also loss of teeth as well as fracture of jaw.

3.Considering the fracture of jaw and the fracture of maxillary bone, the petitioner would have suffered some amount of discomfort. Therefore, the amount under the head of pain and sufferings is enhanced from Rs.10,000/- to Rs.15,000/-. Likewise, the Transportation charges is enhanced from Rs.2,000/- to Rs.7,000/-. In all other respects, the Award remains unaltered. The enhanced compensation would be a sum of Rs.78,440/-. Therefore, taking into consideration the above aspects, the modified amount is as follows:

|                        |              |
|------------------------|--------------|
| Loss of earning power  | :Rs.55,440/- |
| Pain and sufferings    | :Rs.15,000/- |
| Transportation charges | :Rs. 7,000/- |
| Extra nourishment      | :Rs. 1,000/- |
|                        | -----        |
| Total                  | :Rs.78,440/- |
|                        | -----        |



C.M.A.No.3684 of 2014

4. Accordingly, this Civil Miscellaneous Appeal is partly allowed. The 2<sup>nd</sup> respondent/Insurance Company is directed to deposit the entire award amount, less the amount already deposited, with proportionate accrued interest and costs, to the credit of M.C.O.P.No.247 of 2018 on the file of the learned Judge, Motor Accidents Claims Tribunal, Arni, Thiruvannamalai District, within a period of four weeks from the date of receipt of a copy of this order, if not deposited earlier. On such deposit, the appellant is permitted to withdraw the entire award amount with proportionate accrued interest and costs, by making necessary applications. The claimant is directed to pay the Court fee for the compensation amount, if required. The Tribunal below shall not disburse the amount till such time as proof of payment of Court Fee has been produced by the claimant. No costs.

26.10.2022

Index : Yes/No  
Internet : Yes/No  
Speaking order / Non speaking order  
mps



C.M.A.No.3684 of 2014

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To

The Judge,  
Motor Accidents Claims Tribunal,  
Arni,  
Thiruvannamalai District.



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C.M.A.No.3684 of 2014

**P.T. ASHA, J,**

mps

**C.M.A.No.3684 of 2014**

26.10.2022