



WEB COPY



C.M.A.No.1356 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2022

C O R A M

THE HONOURABLE Ms.JUSTICE P.T.ASHA

C.M.A.No.1356 of 2017

Jaya Sandhya @ Sandiya

.. Appellant

-Vs.-

1. Subramanian
2. The New India Assurance Company Limited,
Thirty Party Motor Claims Office,
No.45, Moore Street,
Chennai 600 001

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 04.06.2016 and made in M.A.C.T.O.P.No.512 of 2013 on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Ponneri.

For Appellant : Ms.M.Malar
For Respondent-1 : *Ex-parte*
For Respondent-2 : Mr.J.Chandran

JUDGMENT

The claimant is the appellant before this Court seeking enhancement of the Award passed by the Motor Accident Claims Tribunal, Ponneri in M.C.O.P.No.512 of 2013.



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2. The main ground of challenge to the said Award is that the Tribunal has not taken into account the evidence of P.W2-Doctor, who had in Ex.P15-Disability Certificate stated that the appellant had suffered from a hearing loss.

3. It is the contention of the learned counsel for the appellant that the Tribunal has ignored both Ex.P5-Continuous treatment certificate and P15-Disability certificate. Therefore, a very meagre amount has been given under the head of permanent disability.

4. The learned counsel appearing for the Insurance Company on the other hand would submit that the hearing loss has not been mentioned either in Ex.P2-Accident Register, Ex.P3-Discharge Summary or Ex.P5-Continuous treatment certificate. The injuries that have been described as follows:

1. Head injury.
2. Left Parietal SAH
3. Left Temporal Contusion



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4. Right temporal parietal fracture and multiple abrasion and contusion injuries all over the body grievous in nature.

Nowhere is there any mention about about the hearing loss. The same has been introduced only in Ex.P15-Disability Certificate. Though under Ex.P15, the disability has been assessed at 60%, the Tribunal has fixed the disability of the petitioner at 45%. A perusal of Ex.P15 would show that under head of hearing impairment, the Tribunal has assessed the disability at 25%. Considering the fact that there is no reference to hearing loss in the discharge summary issued by the hospital and for the first time, the loss of hearing has been introduced in Ex.P6-Hearing report, which has been issued nearly 1 year and 5 months after the accident, the same cannot be taken note of. That apart, Ex.P15 does not make any reference to a road accident being the cause for the hearing loss. Therefore, the argument advanced by the learned counsel of the appellant has to necessarily be rejected.

5. Be that as it may, taking into account the period of treatment undergone as an inpatient and the injuries sustained by the petitioner, the amount under the head of pain and suffering is enhanced to a sum of



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Rs.40,000/- as against a sum of Rs.25,000/-, the amount granted under the head of Rich and Nutritious Food is enhanced to a sum of Rs.15,000/-. No amounts have been granted by the Tribunal under the head of loss of amenities, therefore, a sum of Rs.10,000/- is granted under this head. Therefore, the total compensation now stands at a sum of Rs.3,27,990/- as follows:

<i>Heads</i>	<i>Amount by the Tribunal in Rs.</i>	<i>Amount Awarded by this Court in Rs.</i>
Pain and suffering	25,000	40,000
Medical expenses	1,17,990	1,17,990
Rich and nutritious food	10,000	15,000
Transport Expenses	10,000	10,000
Permanent disability	1,35,000	1,35,000
Loss of amenities	-	10,000
Total	2,97,990	3,27,990

6. The appeal is partly allowed and the impugned Award of the Tribunal is modified, enhancing the compensation amount from **Rs.2,97,990** to **Rs.3,27,990**. The second respondent-Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.512 of 2013 along with interest at the rate of 7.5% per annum from the date of claim petition till the



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date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the claimant is permitted to withdraw the award amount, along with accrued interest and costs as awarded by the Tribunal, less, 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. In other respects, the Award of the Tribunal is hereby confirmed. There shall be no order as to costs in the present appeal.

10.10.2022

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P.T.ASHA, J.,

srn

To

1. The Subordinate Judge,
Motor Accident Claims Tribunal, Ponneri.
2. The Section Officer,
V.R.Section, High Court, Madras.

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