



C.M.A.No.513 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2022

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.513 of 2017

N.Varalakshmi

... Appellant / Petitioner

Vs

1.R.Mohandoss

2.K.Kumar

3.The New India Assurance Co. Ltd.,

No45, 5th Floor, Moore Street

2nd Line Beach

Chennai - 600 001.

... Respondents / Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to enhance the award dated 02.09.2014 made in M.A.C.T.O.P.No.4027/2012 on the file of the Motor Accident Claims Tribunal (In the Court of II Judge, Small Causes) Chennai.

For Appellant : Mr.A.Subradra
for M/s.M.Malar

For Respondents : Mr.Krishnamoorthy [R3]
R1 & R2 - Exparte



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JUDGMENT

The petitioner/claimant is the appellant herein before this Court seeking enhancement of the Award passed in M.A.C.T.O.P.No.4027 of 2012 by the Motor Accident Claims Tribunal, Chennai.

2. It is the case of the petitioner that she had sustained injuries in a road accident on 05.08.2012 and she is a house wife and she had suffered a comminuted fracture distal radius left, contusion injury in pubic region and multiple injuries all over the body. She had sought for a compensation of Rs.6,00,000/-.

3. The claim of the petitioner was denied by the third respondent- Insurance Company. The first and second respondents, who are the insured and the driver, had not participated in the proceedings and were therefore set *ex-parte*. The Tribunal had awarded a sum of Rs.2,16,000/- as compensation.



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4. The Tribunal had observed that the injuries/disability had not in any fashion, reduced the earning capacity, but had caused a functional disability to the petitioner/claimant/appellant. However, considering the injuries, the Tribunal ought to have taken the entire disability and adopted a sum of Rs.3,000/- per percentage for calculating the loss on account of the disability. The petitioner/claimant was a house wife, and the Tribunal had therefore adopted her income as Rs.5,000/- and calculated the loss of income for two months as Rs.10,000/-. It is needless to state that a home-maker (house-wife) has no fixed hours of working, no holidays and her work is 24x7. If each of the work that a home-maker does in confines of her home and if the same task is to be done by a third person after receiving the wages, then the monthly outflow for a family would be rather steep. The home-maker job does not stop with cooking and cleaning the house, but also extends into different forms, like, she does the role of a maid servant, a good advisor, a nurse, a care giver etc. Therefore, the monthly income can be safely taken as Rs.10,000/- and the loss of income would be a sum of Rs.20,000/- for two months. She must have incurred expenses for



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transportation from her residence to the hospital, and therefore, a sum of Rs.10,000/- is granted under the head of transportation charges. Further, she has been in hospital for about 6 days and there must have been someone to attend to her. Therefore, the amount under the head "attender charges" is enhanced to a sum of Rs.10,000/-. The amount under the head "disability" would be a sum of Rs.1,05,000/- (Rs.3,000 x 35). Therefore, the re-worked compensation is as follows:-

<i>Heads</i>	<i>Amount by the Tribunal in Rs.</i>	<i>Amount Awarded by this Court in Rs.</i>
Loss of income for 2 months	10,000	20,000
Transportation Charges	5,000	10,000
Extra Nourishment	5,000	5,000
Damages to clothes	1,000	1,000
Medical expenses	90,000	90,000
Attender Charges	5,000	10,000
Mental agony and pain and sufferings	30,000	30,000
Disability	70,000 (Rs.2,000 x 35%)	1,05,000 (Rs.3000 x 35%)
Total	2,16,000	2,71,000



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5. The appeal is partly allowed and the impugned Award of the Tribunal is modified, enhancing the compensation amount from Rs.**2,16,000** to **Rs.2,71,000**. The third respondent-Insurance Company is directed to deposit the said amount to the credit of M.A.C.T.O.P.No.4027 of 2012 along with interest at the rate of 7.5% per annum from the date of claim petition till the 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 claimants. In other respects, the Award



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of the Tribunal is hereby confirmed. There shall be no order as to costs in the present appeal.

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Index : Yes / No

Speaking order / Non-speaking order

srn

To:

- 1.The Judge
Court of Small Causes - II
Motor Accident Claims Tribunal
Chennai.
- 2.The Section Officer
V.R.Section, High Court, Madras.



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P.T.ASHA, J.,

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