



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A. (MD) No. 16 of 2018

Hajira Beevi ... Appellant / Claimant

Vs

1. Sundar

2. The Manager (Legal),
Cholamandalam General Insurance Company Limited,
No.3 & 4, Dindigul High Road,
Near Sri ENT Hospital,
Kalavasal,
Madurai.

... Respondents / Respondents

(R1- was set exparte before the Tribunal. Hence,
notice may be given up against R1 herein)

PRAYER: Civil Miscellaneous Appeal filed under Section 173(1) of the Motor Vehicles Act, 1988, praying this Court to set aside the judgment and decree made in M.C.O.P. No. 1311 of 2016 by the Motor Accident Claims Tribunal / Special District Court, Thanjavur dated 27.10.2017.

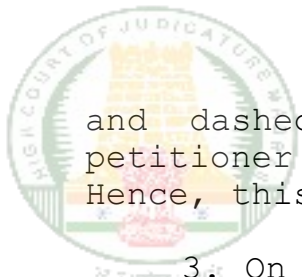
For Appellant : Mr.G.Karnan

For Respondents : R1 - Given up
Mr.S.Srinivasa Raghavan for R2

J U D G M E N T

The claimant is the appellant herein. Challenging the award, dated 27.10.2017 made in M.C.O.P. No. 1311 of 2016, on the file of the Motor Accident Claims Tribunal (Special District Judge), Thanjavur, the present Civil Miscellaneous Appeal is filed.

2. The brief facts relevant for the consideration of the above case are that on 11.07.2016, at about 08.00 p.m, while the appellant / claimant was travelling as a pillion rider in two wheeler, bearing Registration No. PY-01-AL-4884, her husband had driven the above said two wheeler; at that time, from the opposite direction, the driver of the first respondent's Indica Car, bearing Registration No. TN-22-CD-6626, drove the vehicle in a rash and negligent manner



and dashed against the petitioner. Due to the accident, the petitioner sustained grievous injuries and admitted in the hospital. Hence, this petition.

3. On the side of the appellant / claimant, two witnesses were examined as PW1 and PW2 and 9 documents were marked as Exs.P1 to P9. On the side of the respondents, no oral or documentary evidence were adduced.

4. The Tribunal, after analysing the oral and documentary evidence available on record, awarded a compensation of Rs.5,76,859/- together with interest at the rate of 7.5% per annum and directed the second respondent to pay the same jointly and severally to the appellant / claimant.

5. Aggrieved against the said award passed by the Tribunal, the appellant / claimant has filed the present appeal under Section 173 (1) of the Motor Vehicles Act, 1988.

6. Heard both sides and perused the materials available on records.

7. The factum of the accident, the manner of the accident and the injured sustaining injury in the accident, are not disputed by both the parties. Accordingly, the findings of the Tribunal, to that effect, are hereby confirmed.

8. Based upon Ex.P2 - discharge summary, Ex.P8 - disability certificate, PW2 - Doctor, who had issued permanent disability certificate at 90%, the Tribunal fixed the functional disability at 50%. Hence, the contention of the learned counsel for the appellant / claimant is that the Tribunal should have fixed 90% functional disability. It is the specific case of the appellant / claimant that she was working as a Tailor and earning a sum of Rs.10,000/- per month. The appellant / claimant has not produced any evidence to prove her income. Hence, the Tribunal fixed the income of the petitioner at Rs.4,500/- per month.

9. Considering the nature of accident and avocation of the petitioner and also taking note of the injury, I find that the income of the petitioner fixed by the Tribunal is very low and the same is re-fixed at Rs.6,500/-. Accordingly, the income is fixed at Rs.6,500/- and other compensation awarded by the Tribunal are hereby confirmed.

Calculation:

Notional Income = Rs.6,500/-

38% Future Prospects = Rs.2,470/-

Total = 6,500 + 2,470 = Rs.8,970/-

Loss of Future Income:

= Rs.8,970 x 12 x 15 x 50%

<https://hcservices.ecourts.gov.in/hcservices/>

10. Accordingly, the award of the Tribunal in M.C.O.P. No. 1311 of 2016 is modified as follows:

Sl. No.	Particulars	Amount granted by the Tribunal	Amount granted by this Court
1.	Loss of Future Income	Rs.4,05,000/-	Rs.8,07,300/-
2.	Medical Expenses	Rs.51,859/-	confirmed
3.	Transportation Charges	Rs.10,000/-	confirmed
4.	Special Diet and Nutrition as advised by the Doctor	Rs.10,000/-	Confirmed
5.	Pain and suffering	Rs.30,000/-	Confirmed
6.	Loss of amenities	Rs.10,000/-	Confirmed
7.	Attender Charges	Rs.10,000/-	Confirmed
8.	Loss of expectation of life	Rs.50,000/-	Confirmed
	Total	Rs.5,76,859/-	Rs. 9,79,159/-

11. The compensation awarded by the Tribunal is enhanced from Rs.5,76,859/- to Rs.9,79,159/- which shall carry interest at the rate of 7.5% per annum.

12. In the result,

(i) The Civil Miscellaneous Appeal is allowed in part. No costs.

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.5,76,859/- to Rs.9,79,159/-.

(iii) The second respondent herein - Cholamandalam Insurance Company is directed to deposit the entire compensation of Rs.9,79,159 /- (if not already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till date of deposit to the credit of M.C.O.P. No. 1311 of 2016, on the file of the Motor Accident Claims Tribunal (Special District Court), Thanjavur, within a period of twelve weeks from the date of receipt of a copy of this judgment.

(iv) On such deposit being made, the appellant / claimant is permitted to withdraw the entire amount after following the due process of law.

Sd/-

Assistant Registrar(CS-III)

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/ /2022

Sub Assistant Registrar(CS)



1. The Motor Accidents Claims Tribunal/
The Special District Court,
Thanjavur.

2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+1 CC to M/s.G.KARNAN, Advocate (SR-5567[F] dated 11/02/2022)

+1 CC to M/s.S.SRINIVASA RAGHAVAN, Advocate (SR-5638[F] dated
11/02/2022)

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SVS (CO)
TR(20.04.2022) 4P 6C