



C.M.A.No.670 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2023

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THE HON'BLE MRS.JUSTICE N.MALA

C.M.A.No.670 of 2022

Minor Victorya Antony ... Appellant
vs.

1.G.Arunbalaji

2.The Divisional Manager,
Royal Sundaram General Insurance Co. Ltd.,
Vishranthi Malaram Towers,
No.2/319, Rajiv Gandhi Salai (OMR),
Karapakkam,
Chennai – 600 097. ... Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to enhance the compensation from Rs.1,23,893/- for a further sum of Rs.4,00,00/- (as restricted by Appellant) passed by learned Motor Accident Claims Tribunal at Ariyalur in MCOP.No.124 of 2019 vide Order/Award dated 18.08.2021 with higher rate of interest and costs.

For Appellant : Mr.R.Dhanasekar

For R1 : No appearance

For R2 : Ms.C.Harini

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J U D G M E N T

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This Civil Miscellaneous Appeal is filed to enhance the compensation from Rs.1,23,893/- for a further sum of Rs.4,00,00/- (as restricted by Appellant) passed by learned Motor Accident Claims Tribunal at Ariyalur in MCOP.No.124 of 2019 vide Order/Award dated 18.08.2021 with higher rate of interest and costs.

2.The appeal is filed by the claimant for enhancement of compensation.

3.According to the claimant, on 17.10.2018, while the claimant was pillion riding with her mother in a two wheeler, the driver of the first respondent drove the vehicle in a rash and negligent manner and hit the two-wheeler. Due to the impact, the claimant sustained multiple grievous injuries all over the bod. The claimant was hospitalised for the treatment of the injuries for 10 days from 17.10.2018 to 26.10.2018. Due to the above said accident, the claimant was unable to do her normal work and she was put to great mental agony. Therefore, the claimant filed the claim petition



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claiming a sum of Rs.15,00,000/- as compensation for the injuries sustained by her in the accident.

4.The first respondent remained ex-parte before the Claims Tribunal and the second respondent/Insurance Company contested the claim petition, by filing a detailed counter denying all the averments made in the claim petition, apart from disputing the negligence, quantum and liability.

5.Before the Claims Tribunal, the claimant examined herself as PW1 and documents Ex.P1 to Ex.P12 were marked. The respondents neither marked any document nor let in oral evidence. The Disability certificate issued by the Medical Board was marked as Ex.C1.

6.The Claims Tribunal on an assessment of entire evidence on record returned a finding of negligence against the driver of the first respondent, awarded a sum of Rs.1,23,893/- along with 7.5% interest as compensation and mulcted the liability on the second respondent. Not satisfied with the award passed by the Claims Tribunal, the Claimant has filed the present



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appeal.

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7.The learned counsel appearing for the claimant submitted that the Tribunal having adopted the unit method for assessing the compensation towards disability erred in fixing Rs.3,000/- per percentage of disability. According to the learned counsel as the accident took place in the year 2018, a sum of Rs.5,000/- per percentage of disability ought to have awarded. The learned counsel relied on the Judgment of this Court in the case of ***M.Chinnathambi Vs. National Insurance Company Limited in CMA.No.4645 of 2019 dated 10.01.2020*** in support of his submission. The learned counsel further submitted that the award towards other heads like medical bills, extra nourishment, pain and suffering were also on the lower side and that the Tribunal failed to award any sum towards the heads of transportation and attender charges.

8.The learned counsel appearing for the respondent on the other hand submitted that the award of the Claims Tribunal was fair just and proper and the same did not call for any interference.

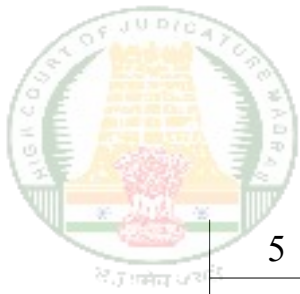


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9.I have heard both the learned counsels and have perused the materials on record.

10.This Court in the case of *M.Chinnathambi Vs. National Insurance Company Limited in CMA.No.4645 of 2019 dated 10.01.2020* held that Rs.5,000/- can be awarded for each percentage of disability. I am therefore of the view that for 9% disability sustained by the claimant, the claimant shall be entitled to Rs.45,000/- at Rs.5,000/- per percentage of disability. As far as the attender charges, extra nourishment, pain and sufferings, transportation are concerned, I am of the view that the claimant is entitled to enhancement of compensation considering the nature of injuries sustained by the claimant and the period of hospitalisation undergone by the claimant for the treatment of injuries. The award of the Claims Tribunal is therefore modified as follows:

Sl.No.	Heads	Award of the Tribunal	Award of this Court
1	Disability compensation (5000 x 9 %)	Rs.27,000/-	Rs. 45,000/-
2	Medical Bills	Rs.91,893/-	Rs.1,24,752/-
3	Loss of Income	NIL	NIL
4	Transportation	NIL	Rs. 5,000/-



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5	Attender charges	NIL	Rs. 5,000/-
6	Extra Nourishment	Rs. 2,000/-	Rs. 20,000/-
7	Pain & Sufferings	Rs. 2,000/-	Rs. 20,000/-
8	Damages to clothes	Rs. 1,000/-	Rs. 1,000/-
TOTAL		Rs.1,23,893/-	Rs.2,20,752/-

11.In the result, the claimant shall be entitled to Rs.2,20,752/- along with 7.5% interest. The second respondent/Insurance company is directed is deposit the enhanced compensation of Rs.2,20,752/- along with 7.5% interest, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the claimant is permitted to withdraw the same by making proper application before the Claims Tribunal.

12.Accordingly, this Civil Miscellaneous Appeal is partly allowed.

There shall be no order as to costs.

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Index : yes/no

Internet : yes/no

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To

1.The Motor Accident Claims Tribunal,
Additional Sub Judge,

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Ariyalur.

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

N.MALA, J.

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