



C.M.A.No.1209 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.02.2023

PRONOUNCED ON : 31.03.2023

CORAM:

THE HONOURABLE Mrs.JUSTICE R.KALAIMATHI

C.M.A.No.1209 of 2013

C.Jothilakshmi ... Appellant

vs.

1.A.Mariyappan

2. IFFCO-TOKIO General Insurance Company Ltd.,
Thulasi Chambers,
3rd Floor, TVS Samy Road,
R.S.Puram, Coimbatore. ... Respondents
(The 1st Respondent is already
set exparte before the trial Court,
hence notice may be dispense with).

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 08.07.2010 made in M.C.O.P.No.359 of 2008 on the file of MACT/FTC No.2 at Gobichettipalayam, Erode District to set aside the same and to enhance the award.

For Appellants : Mr.Ma.P.Thangavel

For Respondents : Mrs.R.Rathna Thara [R2]

JUDGMENT

The claimant herein has preferred this appeal against the judgment



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and decree passed in M.C.O.P.No.359 of 2008 on the file of Motor Accident Claims Tribunal / Fast Track Court, No.2 at Gobichettipalayam, Erode District for enhancement of compensation.

2. The claim petition was filed under Section 166 of Motor Vehicles Act, claiming compensation of Rs.4,00,000/- for the injuries suffered in a road accident that occurred on 13.05.2007.

3. The learned Tribunal after hearing both sides and upon considering the oral and documentary evidence, passed the award for an amount of Rs.41,500/- with 7.5% interest p.a., from the date of filing of the petition till the date of realisation.

4. The learned counsel for the appellant would vehemently contend that the compensation granted by the Tribunal is meagre. It was further contended that taking into account that the injured was aged about 21 years for the permanent disability of 31% in order to arrive at the loss of earning, multiplier method should have been adopted. For medical expenses and for pain and sufferings undergone, the amount awarded is on the lower side and prayed to enhance the compensation amount.



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5. Per contra, the learned counsel for the 2nd respondent/Insurance Company would vehemently argue that the Tribunal after taking into consideration of the oral and documentary evidence and after hearing both sides, has passed an award for an amount of Rs.41,500/- is reasonable and it need not be interfered with.

6. Heard the rival contentions put forth by learned counsels of both sides and perused the materials available on record.

7. It is the evidence of PW2 Jothilakshmi that on 13.05.2007 at about 10.30 hours, while she was riding TVS-50 two wheeler bearing Reg.No.TN-36-H-8351 along the Kongarapalayam road near Amma Kodikkal bus stop, the driver of the goods career bearing Reg.No.TN-36-H-4156 came at high speed in a rash and negligent manner hit on the claimant and she sustained grievous injuries, is not in dispute.

8. It is the evidence of PW2-Jothilakshmi and PW3-Dr.Thambiraj, coupled with the wound certificate Ex.A14 and Ex.A20, it could be seen that she suffered fracture of right and left scapula / both fractures malunited and she was said to be suffering from stiffness of right and left shoulder joint. It could be seen that she sustained injuries on the right and



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left scapula and injuries on the right mandible and injuries all over the body. PW2- Dr.Thambiraj has categorised the two injuries as grievous injuries and two injuries as simple injuries and assessed the disability at 31%. The accident had happened in the year 2007. The claimant is said to be working in a banian company as a worker and earning Rs.4,500/- per month, for which no documentary evidence is filed to substantiate the same. No amounts were granted under the heads of attender charges, transportation, extra nourishment and damage to clothes for the injuries sustained by the claimant. Taking note of the fact that the attender would have served for some time during her treatment period, a some of Rs.4,000/- is granted towards attender charges and for Transportation a sum of Rs.3,000/- is granted. Considering the nature of injuries sustained by the appellant/claimant, an amount of Rs.2,000/- is granted towards Damage to Clothes and for a sum of Rs.2,000/- is granted towards Extra Nourishment.

9. The learned counsel for the appellant would submit that multiplier method be invoked in view of the fracture sustained by the appellant. In view of the fracture, the appellant would have faced difficulties in attending her work as she did before. Therefore, an amount of Rs.15,000/- is granted for the disability she suffered in addition to the amount already



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awarded. This Court deems fit to fix her monthly income at Rs.3,500/-, the loss of income for four months Rs.14,000/- is granted.

10. In respect of other heads, amount awarded by the Tribunal appears to be reasonable and it needs no interference. Thus, the Compensation awarded by the Tribunal is reworked as tabulated below:

Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For Disability	Rs.31,000/-	Rs.31,000/-	Confirmed
2	For Medical Expenses	Rs. 500/-	Rs. 500/-	Confirmed
3	For Pain and Sufferings	Rs.10,000/-	Rs.10,000/-	Confirmed
4	For Attender Charges	Nil	Rs. 4,000/-	Granted
5	For Transport Charges	Nil	Rs. 3,000/-	Granted
6	For Damage to Clothes	Nil	Rs. 2,000/-	Granted
7	For Extra Nourishment	Nil	Rs. 2,000/-	Granted
	Total	Rs.41,500/-	Rs.52,500/-	



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11. Thus, the compensation awarded by the Tribunal is enhanced from Rs.41,500/- to Rs.52,500/- which would carry interest at the rate of 7.5% per annum.

12. In the result,

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

(ii) The compensation awarded by the Tribunal is enhanced from Rs.41,500/- to Rs.52,500/- .

(iii) The 2nd respondent / Insurance Company is directed to deposit the enhanced compensation amount i.e., Rs.52,500/- (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.359 of 2008 on the file of Motor Accident Claims Tribunal / Fast Track Court, No.2 at Gobichettipalayam, Erode District, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the appellant / claimant is at liberty to withdraw the same (less the amount if any, already withdrawn) as per the Orders passed by the Tribunal, by making necessary cheque application before the Tribunal. The claimant is directed to pay the Court fee for the enhanced compensation amount, if required. The Tribunal below shall disburse the enhanced amount upon production of the certified



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copy showing proof of payment of Court fee by the claimant.

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Index : Yes/No
Speaking / Non-speaking order
ssn

To:

1. The Motor Accident Claims Tribunal,
MACT/FTC No.2 at Gobichettipalayam,
Erode District.
2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.

R.KALAIMATHI, J.,

ssn

Pre-delivery Judgment in

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