



C.M.A.No.2059 of 2013

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 23.06.2023

Coram:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CMA.No. 2059 of 2013

Sangeetha

...Appellant

Vs.

1. Shankar

2. The United India Insurance Co., Ltd.,
No.228, 2nd floor, Mylam Road,
Meenaxshi Complex, Tindivanam.

...Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 challenging the Judgment and Decree passed in M.C.O.P.No.69 of 2009 dated 23.02.2012 by the learned Additional District Judge, Motor Accident Claim Tribunal/ Fast Track Court No.I, Poonamallee.

For Appellant : Mr.K.Varadha Kamaraj

For Respondents : Mr.D.Bhaskaran for R2

No Appearance for R1



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JUDGMENT

This civil miscellaneous appeal is filed by the claimant challenging the Judgment and Decree passed in M.C.O.P.No.69 of 2009 dated 23.02.2012 by the learned Additional District Judge, Motor Accident Claim Tribunal/ Fast Track Court No.I, Poonamallee.

2 The appellant/claimant filed claim petition before the learned Additional District Judge, Motor Accident Claim Tribunal/Fast Track Court No.I, Poonamallee, seeking a sum of Rs.15.00 lakhs as compensation for the injuries suffered by her in the accident on 03.10.2005 while she was traveling in a Mahindra Van bearing Reg.No.TN 22 Q 1707.

3 The claim petition was not contested by the first respondent owner of the offending vehicle and he remained ex-parte before the Tribunal. The second respondent/Insurance company filed detailed counter denying all the allegations apart from the disputing the negligence and liability.



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4 Before the claims Tribunal, appellant/claimant was examined as P.W.1, the Doctor was examined as P.W.2 and Exs.P1 to P6 were marked on behalf of the appellant/claimant, besides two material objects were exhibited as M.O.1 and M.O.2. On the side of the respondents no oral and documentary evidence was adduced.

5 The claims Tribunal, on an assessment of the entire evidence on record, awarded a sum of Rs.2,42,900/- as compensation along with 7.5% interest. Not being satisfied with the compensation ordered by the claims Tribunal, the claimant has filed the above appeal.

6 The learned counsel for the appellant would submit that the appellant/claimant was aged about 19 years at the time of accident and she had suffered grievous injuries. Further the claimant was hospitalized for more than 25 days. The Tribunal without even considering the nature of injuries sustained, period of hospitalisation and the permanent disability suffered by the appellant/claimant, awarded a meager amount of Rs.1,00,000/- towards Loss of Future amenities for disability and the same needs to be enhanced.



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7 The learned counsel further submitted that the appellant/claimant,

being an unmarried girl, who was 19 years only at the time of accident, suffered 50% permanent disability, which would certainly affect her marital prospects, but, the Tribunal erred in not awarding any compensation under the head of Loss of Marital Prospects. Further, since the appellant/claimant was hospitalised for more than 25 days and still she is going to hospital for periodical checkup, the Tribunal ought to have awarded compensation towards Attender charges.

8 The learned counsel for the second respondent, on the other hand submitted that the Award of the Tribunal is just, fair and reasonable and did not call for any interference by this Court.

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

10 It is seen that at the time of accident, the appellant/claimant was aged about only 19 years and was suffered 50% permanent disability, for which the Tribunal awarded only Rs.1,00,000/-, which in my view is very meager and the same has to be enhanced by adopting multiplier method. In the claim



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petition, monthly income of the appellant/claimant was pleaded as Rs.6400/-

p.m. and was working as Pen Assembler in M/s.Classic Services, Chennai.

Since no proof was submitted by the injured, the average income is fixed as Rs.4500/- p.m.

Monthly income of the appellant/claimant - Rs.4500/-

Add 40% future prospects - Rs.1800/-

- (+) Rs.6300/-

Annual income of the appellant/claimant - Rs.6300/-x12 = Rs.75,600/-

Applying multiplier 18 - Rs.75,600/-x18=13,60,800/-

Deduct 50% permanent disability - (-) Rs,13,60,800/- – 6,80,400/-

Thus Loss of future amenities for disability - Rs.6,80,400/-

11 From the discharge summary Ex.P2 and Ex.P3, it is seen that the claimant was hospitalised for more than 25 days. But the Tribunal did not award any compensation towards Attender charges. In my view, the appellant/claimant could have needed assistance of the attender and hence Rs.10,000/- can be awarded towards Attender charges.

12 Further from Ex.P6 Disability certificate, it is seen that the appellant/claimant suffered 50% permanent disability and she was only 19



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years old at the time of accident. Considering the period of hospitalisation and the injuries and disabilities suffered by the appellant/claimant, I am of the view that Rs.25,000/- can be awarded under the head of Loss of marital prospects.

13 In the light of the above discussion, the award of the Tribunal is modified as follows:

<i>Sl. No.</i>	<i>Various Heads</i>	<i>Award of the Tribunal</i>	<i>Award of this Court</i>
1.	Loss of earning	10,000.00	10,000.00
2.	Medical expenses	92,900.00	92,900.00
3.	Transport to Hospital	10,000.00	10,000.00
4.	Extra Nourishment	10,000.00	10,000.00
5.	Pain and Sufferings	20,000.00	20,000.00
6.	Loss of Future amenities for disability	1,00,000.00	6,80,400.00
7.	Loss of marital prospects	-	25,000.00
8.	Attender Charges	-	10,000.00
TOTAL COMPENSATION		2,42,900.00	8,58,300.00

14 The appellant/claimant is therefore entitled to enhanced compensation of Rs.8,58,300/- along with 7.5% interest. The second respondent is directed to deposit the enhanced compensation along with 7.5% interest less the amount, if any, already deposited within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the



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appellant/claimant shall be entitled to withdraw the same by making proper application before the Tribunal. Accordingly the appeal is partly allowed. There shall be no order as to costs.

23.06.2023

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Index: Yes/No

Speaking Order: Yes/No

Neutral citation: Yes/No

To

1. The Additional District Judge, Motor Accident Claim Tribunal/
Fast Track Court No.I, Poonamallee.
2. The Section Officer, V.R.Section, High Court, Madras.



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A.A.NAKKIRAN, J.

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