



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29..11.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1295 of 2020

The Branch Manager,
M/s.Cholamandalam Ms. General
Insurance Company Ltd.,
B.R.Towers, II Floor,
Shanti Nagar,
Opp. To CSI Church,
Denkanikottai Main Road,
Hosur.

.. Appellant

versus

1.Rajeswari @ Ramya
2. S.Muniraju

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 Motor Vehicles Act to set aside the award passed in MACT No.167 of 2017, dated 12.09.2019 on the file of the Motor Vehicle Accidents Claims Tribunal, Additional District court, Hosur.

For appellant : Ms.J.Michael

For Respondents : Mr.S.P.Yuvaraj R1
R2 – No appearance

J U D G M E N T

The Insurance Company has come forward with this appeal, to set aside the award passed in MACT No.167 of 2017, dated 12.09.2019 on the



file of the Motor Vehicle Accidents Claims Tribunal, Additional District court, Hosur.

2. It is the case of the appellant that on 17.02.2014 at about 09.00 hours, when the first respondent was standing on the side of the road along with her 4 friends to go to school at opposite to Merdiyan palace Thirumana Mandapam in Hosur to Krishnagiri NH-& Road, at that time, the owner cum driver of the TATA Ace vehicle, drove the same in a rash and negligent manner, dashed against the first respondent and two others. Due to which, the first respondent sustained injuries and admitted in hospital and taken treatment. Thereafter, the first respondent/claimant has filed claim petition for the injuries sustained by her before the Motor Accidents Claims Tribunal claiming compensation for a sum of Rs.15,00,000/- The Tribunal, considering the pleadings, oral and documentary evidence, allowed the claim petition in part and awarded compensation for a sum of Rs.5,33,111/- to the first respondent payable by the insurance company. Challenging the quantum of compensation, the present appeal has been filed by the Insurance company.

3. The learned counsel appearing for the appellant Insurance company



submitted that the Tribunal has awarded a sum of Rs.3,00,000/- towards disability as she suffered 25% disability, which is not sustainable. Further, the Tribunal awarded a sum of Rs.2,33,111/- for medical bills. Out of the said amount, the claimant has produced the bills for Rs.1,66,686/- and the remaining amount of Rs.66,425/- is not relating to the accident and in this regard, no details were produced. Hence, this Court may interfere with the award.

4. The learned counsel for the first respondent did not dispute the fact submitted by the learned counsel for the appellant.

5. Heard the learned counsel for the appellant and the learned counsel for the first respondent perused the materials available on record.

6. The facts of the case are not in dispute. In respect of the amount towards disability, the Tribunal has rightly awarded the amount by following the decision rendered by the Hon'ble Apex Court in the case of Mallika reported in 2013 ACJ 2445. Therefore, this Court is not inclined to interfere with the same and the amount towards disability is confirmed. As rightly submitted by the learned counsel for the appellant, a sum of



Rs.66,425/- is not relating to the present case and the learned counsel for the first respondent is also accepted the same. In view of the consent view expressed by the learned counsel on either side, this Court is inclined to set aside the award passed by the Tribunal and the same is modified as follows:

Sl.No.	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)
1	For disability	3,00,000/-	3,00,000/-
2	Medical bills	2,33,111/-	1,66,686/-
	Total	5,33,111/-	4,66,686/-

9. In the result, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal is hereby modified to **Rs.4,66,686/-** with interest at the rate of 7.5% per annum from the date of petition till the date of realization. The appellant is directed to deposit the enhanced award amount with interest, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal shall deposit the award amount with interest to the account of the claimant within a period of two weeks thereafter. No costs.

29.11.2023

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M.DHANDAPANI.,J.

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To

The Motor Vehicle Accidents Claims Tribunal,
Additional District court, Hosur.

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