



C.M.A.No.1761 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2023

CORAM : JUSTICE N.SESHASAYEE

C.M.A.No.1761 of 2022

Thangapappa

..... Appellant / Petitioner

Vs

1.Deivanayagam

2.United India Insurance Company Limited

Rep by its Branch Manager

Having office at : No.50, Jeevanandam Street

Karaikal.

..... Respondents / Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 praying to allow this appeal, and to enhance the amount awarded in M.C.O.P.No.234 of 2015 dated 22.11.2019 on the file of Motor Accident Claims Tribunal (District Judge), Karaikal, with interest and costs.

For Appellant : Ms.P.Pooja
for Mr.K.Varadha Kamaraj

For Respondents : Ms.I.Malar [R2]



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JUDGMENT

Dissatisfied with the quantum of compensation awarded in MCOP.No.234 of 2015 on the file of Motor Accident Claims Tribunal (District Court), Karaikal, the appellant herein is before this Court with this appeal.

2. On 13.06.2015, while the victim was walking along the road margin of Bharathiar Road, Kottucherry, Karaikal, an auto rickshaw bearing registration No.PY-02-B-7704 dashed against her causing fractures both to her right tibia and fibula. The victim was immediately taken to Government Hospital, Karaikal, where she was hospitalised from 30.06.2015 to 20.07.2015, and her injuries were surgically corrected. Besides she also suffered injuries to her mandible and facial bones, and hence, she got herself admitted in Mahatma Gandhi Post Graduate Institute of Dental Sciences between 20.07.2015 and 01.08.2015, during which period, necessary corrective surgeries were performed on her. She was again admitted in Government Hospital, Karaikal between 04.08.2015 and 11.08.2015.

3. Seeking compensation for the injuries that she had suffered, the victim



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approached the Tribunal with her claim. During the course of enquiry, at the instance of the Tribunal, the victim appeared before the medical board, which vide Ext.C1 has certified that the victim had suffered 47% permanent disability. While granting compensation, the Tribunal has assessed the compensation for permanent disability at Rs.3,000/- for every percentage of disability and arrived at a sum of Rs.1,41,000/-. Coupled with other compensation on other conventional heads, the Tribunal has granted a award for Rs.2,24,900/-, which it required the respondents to pay with interest at 7.5% p.a., The break-up is as below :

<i>Sl.No.</i>	<i>Heads of Compensation</i>	<i>Amount (Rs.)</i>
1.	Partial permanent disability	1,41,000.00
2.	Pain and suffering	25,000.00
3.	Loss of convenience	25,000.00
4.	Attendant charges	18,900.00
5.	Extra nourishment	10,000.00
6.	Transport to hospital	5,000.00
Total :		2,24,900.00

This award is now under challenge at the instance of the claimant.

4. Mr.I.Malar, learned counsel informs the Court that she is on record for the second respondent and that she is ready with the case, however in the cause list, the name of Mr.M.J.Viyayaraghavan is printed for the second



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respondent, and that the same may be recorded.

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5. The learned counsel for the appellant submitted that the appellant/claimant was a mason/assistant, and that she was making atleast Rs.9,000/- per month, and added that she had lost her earning capacity owing to the grievous injuries sustained in the accident, and this has not been considered by the Tribunal in its award. She also added that the compensation awarded by the Tribunal on certain conventional heads of compensation is also on the lower side.

6. The learned counsel for the second respondent however added that given the nature of the injuries, the award passed by the Tribunal is just fair and reasonable.

7. Heard both sides. This Court weighed the rival submissions and perused the records. The accident had taken place in 2015. Hence, it would be appropriate that the permanent disability is assessed at Rs.4,000/- for every percentage of disability. So far as loss of income during the treatment period is concerned, this Court notionally fixes the monthly income of the victim at



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Rs.9,000/- and awards the same for three months. The compensation on the conventional heads are mildly altered and it is detailed in the tabulation below :

<i>Sl.No.</i>	<i>Heads of Compensation</i>	<i>Revised Award Amount (Rs.)</i>
1.	Loss of disability	1,88,000.00
2.	Loss of income during treatment period (3 months x Rs.9,000)	27,000.00
3.	Pain and suffering	40,000.00
4.	Loss of convenience	25,000.00
5.	Attendant charges	18,900.00
6.	Extra nourishment	20,000.00
7.	Transportation	10,000.00
Total :		3,28,900.00

8. To conclude, the appeal is allowed, and the compensation is enhanced from Rs.2,24,900/- to Rs.3,28,900/-. The respondent, more particularly the second respondent-insurance company is directed to deposit the entire compensation with interest at the rate of 7.5% less (a) any amount which has been already deposited; and (b) interest payable for 630 days delay in filing the appeal, within a period of six weeks from the date of receipt of a copy of this order. The claimant is required to pay the necessary court fee for the enhanced amount, if any. No costs.



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N.SESHASAYEE.J.,

ds

To:

- 1.The District Judge
Motor Accident Claims Tribunal
Karaikal.
- 2.The Section Officer
VR Section
High Court, Madras.

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