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C.M.A.No.965 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

C.M.A.No.965 of 2021

Banupriya

...Appellant

Vs.

1. S.Ravi

(Since R1 remained Exparte before the tribunal,
his presence may be dispensed with.)

2. The United India Insurance Co. Ltd.,
No.127/A, 1st Floor, Trunk Road,
Poonamallee, Chennai – 600 056.

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, as against the Judgment and Decree dated 09.01.2020 made in M.A.C.T.O.P.No.356 of 2015 on the file of the Motor Accident Claims Tribunal, II Additional District Judge, Poonamallee.

For Appellant : M/s.A.Subadra

For Respondents : R1 – Exparte
Mr.P.Sankaranarayanan, for R2



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JUDGEMENT

Challenging the judgment and decree dated 09.01.2020 made in M.A.C.T.O.P.No.356 of 2015 on the file of the Motor Accident Claims Tribunal, II Additional District Judge, Poonamallee, the claimant has come up with this appeal.

2. The case of the appellant is that, on 18.08.2015 at about 07.30 p.m., when the appellant was walking from North to south in CTH Road, Thirumullaivoyal near TSP-V Battalian Road, the driver of the motor cycle bearing Regn.No.TN-20-CX-5664, owned by the 1st respondent insured with the 2nd respondent came in a rash and negligent manner and hit the appellant, due to which, the appellant sustained grievous injuries all over her body. Thereby, the appellant filed a claim petition claiming a compensation of Rs.4,00,000/-. After contest, the tribunal, vide impugned judgment awarded a compensation of Rs.3,01,802/-. Aggrieved with the said order, the present appeal has been filed by the claimant seeking enhancement of the compensation fixed.



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3. Learned counsel appearing for the appellant submitted that admittedly, the above said accident occurred solely due to the rash and negligent driving of the driver of the 1st respondent, due to which, the appellant sustained multiple injuries and she is not able to perform her avocation as effectively as she was carrying on before the accident and the medical board also assessed 25% disability. Though the accident is of the year 2015, the tribunal had taken a sum of Rs.3,000/- per percentage of disability instead of Rs.4,000/-, which is not sustainable. Further, the compensation awarded under other heads are also on the lower side and the same needs to be necessarily enhanced. Accordingly, she prayed for appropriate orders

4. Per contra, the learned counsel appearing for the 2nd respondent/ Insurance Company submitted that, since the appellant had contributed to Health Insurance Scheme, she got reimbursement to the tune of Rs.52,000/- towards the Medical expenses, though the said fact was also accepted by the tribunal, however, without deducting the said amount from the Medical bills shown by the appellant, once again the tribunal had awarded a sum of Rs.52,000/- under the separate head “Health insurance” which is wholly



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unsustainable. Further, the compensation awarded under other heads are already on the higher side which does not require any further enhancement.

Accordingly, he prays for dismissal of the appeal.

5. Heard the learned counsel for the appellant and the learned counsel appearing for the 1st respondent and perused the materials available on record.

6. The factum and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The major grievances of the appellant is with regard to the quantum of compensation fixed by the Tribunal. It is claimed by the appellant that though the accident is of the year 2015, the tribunal had taken a sum of Rs.3,000/- per percentage of disability instead of Rs.4,000/-. On the other hand, as rightly pointed out by the learned counsel appearing for the 2nd respondent insurance company, as evidenced from the records, the appellant received a medical reimbursement of Rs.52,000/- which was elucidated during the cross examination of the appellant, whileso, without considering the same, the tribunal had once again awarded a sum of Rs.52,000/- towards “Health insurance”, which is erroneous.



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7. However, it is to be pointed out that the per percentage disability amount awarded by the Tribunal is on the lower side by around Rs.1000/, while the award of compensation towards the medical expenses is erroneous and, therefore, giving under one head and reducing under the other head would result in the amount to be awarded to be the same and, therefore, no useful purpose would be served in modifying the compensation under the heads, while the compensation amount would remain the same, which would be nothing but an exercise in futility. Therefore, this Court is not embarking upon the said modification, but suffice to confirm the compensation awarded by the Tribunal.

8. For the reasons aforesaid, the appeal stands dismissed and the 2nd respondent-Insurance Company is directed to deposit the compensation awarded by the tribunal with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of two (2) weeks from the date of receipt of a copy of this judgment. On such deposit



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being made, the Tribunal is directed to transfer the said amount directly to the bank account of the appellant through RTGS within a period of two (2) weeks thereafter. There shall be no order as to costs in the present appeal.

22.12.2023

skt

Index : Yes / No
Speaking Order : Yes / No
Neutral Citation Case : Yes / No

To

- 1.The Motor Accident Claims Tribunal, II Additional District Judge,
Poonamallee.
- 2.The Section Officer,
V.R. Section, High Court, Madras.



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M.DHANDAPANI, J.

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