



C.M.A.No.1148 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 06.07.2023

CORAM

THE HONOURABLE **MR. JUSTICE SUNDER MOHAN**

C.M.A.No.1148 of 2023

V.Ramathal

... Appellant

Vs

1.P.Geneshan

2.M/s.United India Insurance Company Limited,
No.139, C.G.Complex,
3rd Floor, Kumaran Road,
Tiruppur - 641 601.

... Respondents

Prayer: Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the fair and decretal order dated 10.10.2022 passed in MCOP No.903/2018 on the file of Presiding Office, Exclusive Motor Accident Claims Tribunal at Tiruppur.

For Appellant : Mr.K.Myilsamy

For Respondents : Mrs.R.Rathna Thara (for R2)

R1 - Exparte



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JUDGMENT

The above appeal has been preferred by the claimant/injured aggrieved by the quantum of compensation awarded by the Tribunal. The claimant filed a petition before the Tribunal stating that on 27.03.2018 at about 7.30 a.m. when she was walking on the Palladam to Tiruppur Road, a bike bearing registration No.TN41 H 2279 driven in a rash and negligent manner dashed against her; that she sustained grievous injuries and took treatment at Government Hospital, Palladam between 27.03.2018 and 01.04.2018 and that she was an agriculturist earning Rs.15,000/- per month and hence she was entitled a compensation of Rs.25,00,000/-.

2.The first respondent remained exparte before the Tribunal.

3.The second respondent/Insurance Company filed a counter before the Tribunal denying the averments in the claim petition. The second respondent had also state that the amount of compensation claimed by the claimant/appellant was excessive.

4.The appellant examined herself as PW1 and marked Exhibits P1 to P10 on her side. The respondent examined RW1 and RW2. The disability certificate was marked as Ex.C1.



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5.The Tribunal after considering the documents and evidence on record held that the appellant suffered injuries due to the rash and negligent act of the first respondent herein and that the second respondent was liable to pay a compensation of Rs.5,27,699/- with interest. The claimant aggrieved by the quantum has filed this appeal.

6.The learned counsel for the appellant submits that the compensation awarded under the head 'loss of income' for a period of four months is meager. The Tribunal ought to have considered the loss of income at Rs.15,000/- per month as the accident took place in the year 2018 and the claimant was an agriculturist. The learned counsel further submitted that the Tribunal ought to have awarded a compensation under the head 'future medical expenses' since the medical report suggested that the injured was taking treatment. However, the Tribunal had erroneously held that the injury was resolved.

7.The learned counsel for the second respondent per contra submitted that the Tribunal had awarded just compensation of Rs.5,27,699/-; and that the appellant had not let in any evidence to show that on account of injury, she had to take continuous medical treatment or had taken medical treatment after the hospitalization. The learned counsel further submitted that the award of



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compensation under all other heads is excessive and hence prayed for dismissal of the appeal.

8.This Court finds that the appellant is aggrieved by the quantum of compensation awarded under the head 'loss of income'. It is her claim that the appellant was earning Rs.15,000/- per month, however, the Tribunal without any basis disbelieved the evidence of the appellant and fixed the monthly income at Rs.9,000/-. This Court is of the view that the notional monthly income fixed by the Tribunal at Rs.9,000/- per month is meagre. Considering the fact that the accident was of the year 2018 and the fact that the daily wages had increased even for coolie workers, this Court is of the view that the notional monthly income fixed by the Tribunal has to be enhanced to Rs.15,000/- per month in the facts and circumstances of the case. Hence, the compensation under the head 'loss of income' has to be increased of Rs.9,000/- to Rs.15,000/- per month and consequently the total compensation under the said head has to be Rs.60,000/-.

9.As regards the future medical expenses, it is seen that the appellant/claimant has not produced any medical bill to substantiate her claim for future medical expenses. Hence, no amount can be awarded under the said head as claimed by the appellant. Hence, the award is modified is as follows:



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S. No	Description	Amount awarded by Tribunal (Rs)	Amount modified by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of income for a period of four months till recovery - Rs.9,000/- X 4= Rs.36,000/-	36,000/-	60,000/- (Rs.15,000/- X 4= Rs.60,000)	Enhanced
2.	Compensation for 70% partial permanent disability Rs.3,50,000 (Rs.5,000x70%)	3,50,000/-	3,50,000/-	Confirmed
3.	Expenses towards transportation	10,000/-	10,000/-	Confirmed
4.	Expenses towards extra nourishment	25,000/-	25,000/-	Confirmed
5.	Expenses towards attender charges	10,000/-	10,000/-	Confirmed
6.	Damages towards her cloths and articles, vehicle	5,000/-	5,000/-	Confirmed
7.	Pain and Suffering and Loss of amenities (Rs.50,000/- + Rs.25,000/-)	75,000/-	75,000/-	Confirmed
8.	Medical bills	16,699/-	16,699/-	Confirmed
	Total	5,27,699/-	5,51,699/-	24,000/-



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10. With the above modification, this Civil Miscellaneous Petition is partly allowed and the compensation awarded by the Tribunal at Rs.5,27,699/- is hereby enhanced to Rs.5,51,699/- together with interest at the 7.5% per annum (excluding the default period, if any) from the date of petition till the date of deposit. The second respondent/Insurance Company is directed to deposit the enhanced award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of six (6) weeks from the date of a receipt of copy of this Judgment. On such deposit the claimant is permitted to withdraw the award amount, along with proportionate interest and costs, less the amount if any, already withdrawn. The claimant is directed to pay the necessary Court Fee if any on the enhanced award amount. No costs.

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vs

Index : Yes/No

Speaking order/Non-speaking order

Neutral Citation : Yes/No

To

The Presiding Office,
Exclusive Motor Accident Claims Tribunal at Tiruppur.



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SUNDER MOHAN, J.

VS

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