



C.M.A.No.990 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2023

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.M.A.No.990 of 2020

Madhuram

... Appellant

-VS-

1. Katturaja
2. M/s.New India Assurance Com. Ltd.,
D.No.26 TLUS Complex, II Floor,
27/4, Sankari Road,
Thiruchengode Post & Taluk,
Namakkal District.

... Respondent

Prayer:- Civil Miscellaneous Appeal Petition filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree passed by the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Perambalur in MCOP. No.534/2017 dated 18.09.2018 for awarding compensation.

For Appellants	: Mr.P.Paramasivadoss
For Respondent	: Mr.R.Rajarajan R1 Mr.P.Kandasamy R2

JUDGMENT

The appeal has been filed against the judgment and decree passed by the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Perambalur in MCOP. No.534/2017 dated 18.09.2018 seeking enhancement of compensation.

2. It is the case of appellant that on 10.03.2017, when the appellant's husband was riding his motor cycle bearing registration No.TN 46 K 1048 and



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the appellant was travelling as pillion rider from Ariyalur to Nallarikkarai at about 2.15 p.m. near Maruthaiyan Koil, Thittakudi Road, the Vehicle was proceeding on the extreme left side of the road, at the time, the first respondent's lorry bearing Registration No.TN 88 8824 came from Perambalur to Ariyalur with rash and negligent manner and dashed against the two wheeler. Due to the said accident, the appellant sustained grievous injuries all over the body and immediately thereafter, she was taken to hospital and admitted as inpatient. Hence, the appellant filed a claim petition before the Claims Tribunal claiming compensation of Rs.15,00,000/- After adjudication, the Tribunal has awarded a sum of Rs.6,24,000/- For enhancement of compensation, the appellant has come before this Court.

3. The learned Counsel for the appellant submitted that admittedly, at the relevant point of time, the Doctor, who treated the appellant, has assessed the disability at 46% as partial permanent disability and the Tribunal has fixed at 30% and awarded only Rs.3,000/- per percentage instead of awarding compensation by adopting multiplier method. A sum of Rs.90,000/- towards disability awarded, which is very meager. The appellant was working as a coolie and now, she is not able to do her work because of her disability. Due to the accident, she sustained grievous injuries. Further, the other heads awarded



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by the Tribunal is also meager and he prays for enhancement of the compensation.

4. The learned counsel for the respondent submitted that earlier point of time, the claimant was assessed at 46% partial permanent disability. When the claimant suffered partial permanent disability, there is no need for applying multiplier method. The driver of the two wheeler drove the vehicle in a zig zag manner and turned towards the thittakudi Priviu Road in a negligent manner and dashed against the first respondent lorry. The accident had happened only due to the negligence of the rider of the two wheeler. Hence, the second respondent is not liable to pay any compensation. The appellant has suffered only simple injuries and she has no disability.

5. Heard the learned counsel on either side and perused the materials available on record.

6. The facts of the case are not in dispute. Since the appeal has been filed by the claimant for enhancement of compensation and hence, there is no need for discussion with regard to the negligence aspect. Further, the Doctor has assessed the disability at 46% as partial permanent disability and the Tribunal



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has taken into consideration the same at 30% and awarded Rs.3000/- per percentage (30% x Rs.3000/- = Rs.90,000/-). The learned counsel for the claimant submitted that the appellant has suffered more than 46% functional disability. However, the Doctor assessed the disability as 46% and the Tribunal reduced the same is 30%, in which, this Court issued a direction to the appellant to appear before the Medical Board for re-assessing the disability. The Medical Board assessed the disability of the claimant at 29% as locomotor disability and the same should not treat as permanent disability.

7. The disability fixed by the Doctor would vary from doctor to doctor. In view of the same, this Court, in the interest of justice, is inclined to fix the disability at 36% as partial permanent disability. The accident had happened in the year 2017, a sum of Rs.5,000/- per percentage is fixed to compute towards disability. Further, the Tribunal has awarded a sum of Rs.15,000/- towards pain and suffering. Considering the nature of injuries sustained by the appellant, a sum of Rs.50,000/- is awarded instead of Rs.15,000/- . The Tribunal has awarded a sum of Rs.15,000/-, which is exorbitant and therefore, this Court reduced the same to Rs.10,000/- towards transportation. This Court is inclined to award a sum of Rs.10,000/- for attender charges, which the appellant is entitled for. The compensation awarded by the Tribunal is modified as follows:



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Sl.No.	Description	Amount awarded by Tribunal(Rs.)	Amount awarded by this Court(Rs.)
1	Permanent disability	90,000/-	1,80,000/- (36% X Rs..5000/-)
2	Medical Bills	4,70,000/-	4,70,000/-
3	Loss of income (four months)	24,000/-	24,000/-
4	Transportation	15,000/-	10,000/-
5	Attender charges	...	10,000/-
6	Pain and suffering	15,000/-	50,000/-
7	Extra nourishment	10,000/-	10,000/-
	Total	6,24,000/-	7,54,000/-

8. In the result, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.6,24,000/- is hereby enhanced to Rs.7,54,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization. The second respondent Insurance Company is directed to deposit the enhanced award amount with interest, less the amount if already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant is permitted to withdraw the enhanced award amount, along with interest and costs, less the amount if any already withdrawn. No costs.

21.12.2023

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M.DHANDAPANI,J.

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Index: Yes/No

NCS : Yes/No

To

The Presiding Officer, Motor Accidents Claims Tribunal,
Chief Judicial Magistrate Court, Perambalur.

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