



WEB COPY



C.M.A.No.1165 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2023

CORAM:

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

C.M.A.No.1165 of 2020

Gowri

...Appellant

Vs.

1. Thanakodi
2. The Divisional Manager,
HARC-ERGO General Insurance Co. Ltd.,
No.23, 1st Floor, City towers, Gayathri Nagar,
100 Feet road, Puducherry.

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, as against the judgment and decree dated 08.06.2018 made in M.C.O.P.No.694 of 2015 on the file of the Motor Accident Claims Tribunal, Additional Sub Judge, Puducherry.

For Appellant : Mr.T.Ananthasekar

For Respondents : No Appearance, for R1
Mr.N.Somasundar, for R2



C.M.A.No.1165 of 2020

WEB COPY

JUDGEMENT

Challenging the judgment and decree dated 08.06.2018 made in M.C.O.P.No.694 of 2015 on the file of the Motor Accident Claims Tribunal, Additional Sub Judge, Puducherry, the claimant is before this Court.

2. The case of the Appellant is that, on 12.07.2015 at about 07.30 p.m., when the appellant was travelling as a passenger in an auto bearing Regn.No. PY-01-BX-3971, owned by the 1st respondent, insured with the 2nd respondent, due to the rash and negligent driving of the driver of the above said auto, it dashed against a motorcycle bearing Regn.No.PY-01-T-0552 and thereby, the said auto capsized, due to which, the appellant sustained grievous injuries all over her body and got admitted in the hospital. Therefore, the Appellant filed a claim petition claiming a compensation of Rs.18,00,000/-. After contest, the tribunal, vide impugned judgment awarded a compensation of Rs.4,11,000/-. Aggrieved with the said order, the present appeal has been filed by the claimant seeking enhancement of the compensation fixed.



C.M.A.No.1165 of 2020

WEB COPY

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 vehicle, due to which, the appellant sustained grievous head injury, a crush injury over right hand, and multiple fracture all over her body and the medical board also assessed a permanent disability of 36.67%. Though the tribunal had rounded off the disability to 40%, however, had taken only a sum of Rs.3,000/- per percentage instead of Rs.4,000/-, which is not sustainable and the compensation awarded under the other heads are also on lower side and the same has to necessarily be enhanced. Accordingly, he prayed for appropriate orders.

4. Per contra, the learned counsel appearing for the 2nd respondent/ Insurance Company submitted that, by considering all the relevant documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, he prayed for dismissal of the appeal.

5. Heard the learned counsel for the appellant and the learned counsel



C.M.A.No.1165 of 2020

appearing for the 2nd respondent and perused the materials available on record.

WEB COPY

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/claimant is with regard to the quantum of compensation awarded by the Tribunal. It is claimed by the appellant that though the accident is of the year 2015, however, the Tribunal had taken had erroneously adopted a sum of Rs.3,000/- per percentage of disability. In this regard, this Court perused Ex.X.1, which is the disability certificate issued by the Medical Board and the same reveals that the appellant suffered permanent disability of 36.67%. After rounding of the disability to 40% and by erroneously adopting a sum of Rs.3,000/- per percentage of disability, the tribunal and awarded a sum of Rs.1,20,000/-. However, as per the existing law at the relevant point of time, the Tribunal ought to have fixed a sum of Rs.4,000/- per percentage of disability. Hence, this Court is inclined to fix a sum of Rs.4,000/- per percentage of disability, however, fixes the disability suffered by the appellant as 37%. Therefore, the amount under the head of permanent disability stands



C.M.A.No.1165 of 2020

enhanced to a sum of Rs.1,48,000/- (37% x Rs.4,000/- = Rs.1,48,000/-).

WEB COPY

7. In view of the above, the compensation awarded by the Tribunal is modified as under :-

Heads	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
Permanent disability	1,20,000/-	1,48,000/- (enhanced)
Pain and sufferings	50,000/-	50,000/-
Rich and nutritious food	25,000/-	25,000/-
Loss of income	90,000/-	90,000/-
Transportation	10,000/-	10,000/-
Medical expenses	96,000/-	96,000/-
Future medical expenses	10,000/-	10,000/-
Attendant charges	10,000/-	10,000/-
Total	4,11,000/-	4,39,000/-

8. Accordingly, the appeal is partly allowed and the impugned award of the Tribunal is modified enhancing the compensation amount from **Rs.4,11,000/-** to **Rs.4,39,000/-**. The 2nd respondent/Insurance Company is directed to deposit the said amount to the credit of M.A.C.T.O.P.No.694 of 2015 along with interest at the rate of 7.5% per annum from the date of claim



C.M.A.No.1165 of 2020

petition till the date of deposit and costs as awarded by the Tribunal, less, the

WEB COPY

amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment. On such deposit 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, upon production of proof with regard to payment of Court fee on the enhanced compensation by the appellant. There shall be no order as to costs in the present appeal.

29.11.2023

skt

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

To

- 1.The Motor Accident Claims Tribunal, Additional Sub Judge,
Puducherry.
- 2.The Section Officer,

Page No.6 of 8



C.M.A.No.1165 of 2020

V.R. Section, High Court, Madras.

WEB COPY



WEB COPY



C.M.A.No.1165 of 2020

M.DHANDAPANI, J.

skt

C.M.A.No.1165 of 2020

29.11.2023