



C.M.A.No.1818 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: **11.09.2023**

CORAM:

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CMA.No1818 of 2023

1.J.Chitra

... Appellant

Vs.

1.M/s.NTL Call Taxi PVt. LTd.,
No.3, Pudupet Street,
Alandur, Chennai - 600 006.

2.United India Insurance Co. Ltd.,
Silingi Building, 4th Floor,
No.134, Greams Road,
Chennai - 600 006.

... Respondents

PRAYER: The Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 09.06.2022 made in MACT.OP.No.2788 of 2018, on the file of Motor Accident Claims Tribunal in the IV Court of Small Causes, Chennai.



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For Petitioner : Mr.S.Prabhu
For Respondents : Mr.T.K.Premkumar for R2
No appearance for R1

JUDGMENT

The claimant has filed this instant appeal seeking enhancement of the compensation.

2. The appellant filed the claim petition stating that on 23.05.2017 at about 16.20 hours, while the appellant was travelling as a passenger in the car bearing Registration No.TN-22-DD-3208, the driver of the car drove the same in a rash and negligent manner and hit against another on-going car bearing Registration No.TN-30-AM-2050, as a result of which, the appellant sustained greivous injuries; and that since the first respondent is the owner of the offending vehicle and the second respondent is the insurer of the said vehicle, they both are together liable to pay the compensation to the appellant.



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3. The first respondent, the owner of the offending vehicle, remained *ex-parte* before the Tribunal.

4. The second respondent resisted the claim stating that the compensation claimed is excessive and that the appellant had filed another claim petition before in O.P.No.5142 of 2017 on the file of VI- Additional Small Causes Court, Chennai and hence, the claim petition is liable to be dismissed.

5. The appellant examined herself as P.W.1 and marked 15 documents as Exs.P1 to P15. On the side of the second respondent neither oral nor documentary evidence was adduced. The Disability Certificate issued by the Medical Board is marked as Ex.C-1.

6. The Tribunal after considering the oral and documentary evidence, awarded compensation of sum of Rs.1,50,013/- to the appellant. Aggrieved over the said award, the appellant has preferred the instant appeal.



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7. The learned counsel for the appellant submitted that the Tribunal on the basis of the Disability Certificate issued by the Medical Board ought to have awarded compensation by adopting multiplier method. The learned counsel further submitted that the compensation awarded by the Tribunal under the other heads also requires enhancement and prayed for allowing the appeal.

8. Learned counsel for the appellant submitted that the first respondent remained *ex-parte* before the Tribunal and therefore, requested this Court to dispense with the notice to the first respondent and had also made an endorsement to that effect in the Court bundle. Hence, notice to the first respondent is dispensed with.

9. Per contra, the learned counsel for the second respondent submitted that the award of the Tribunal is just and reasonable and therefore, no interference is called for and prayed for dismissal of the appeal.



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10. Heard the learned counsel appearing for the appellant/Insurance Company as well as the learned counsel appearing for the second respondent and perused all the materials available on record before this Court.

11. On perusal of the records, this Court finds that the Medical Board assessed 12% permanent disability. The appellant was examined as P.W.1. She had deposed in her cross-examination as follows:

“விபத்து நடந்து சுமார் 1 1/2 வருடத்திற்குப் பின்புதான் நான் வேலையை விட்டு நின்றுவிட்டேன் என்றால் சரிதான்.”

Thus, from the above admitted facts, it is evident that the appellant has not suffered any functional disability. Considering the nature of the injuries; avocation and the above evidence, the Tribunal rightly awarded the compensation by adopting percentage method, hence, the said finding of the Tribunal cannot be faulted.



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12. It is seen from the records that the Tribunal had not awarded any compensation under the head “Future medical expenses”, although the appellant was required to undergo a second surgery for removal of plates. Considering the said fact, this Court is of the view that it would be just and reasonable to award Rs.25,000/- under the head “Future medical expenses”. The compensation awarded under the head “Pain and suffering” is enhanced to Rs.25,000/-, in view of the injuries suffered by the appellant. The award of compensation under the other heads are just and reasonable and hence, the same are confirmed.

13. Thus the award of compensation awarded by the Tribunal is modified as follows:-

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1.	Disability	60,000	60,000	Confirmed
2.	Medical expenses	26,513	26,513	Confirmed
3.	Loss of income	---	---	---



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4.	Pain and suffering	15,000	25,000	Enhanced
5.	Transportation expenses	5,000	5,000	Confirmed
6.	Nutrition Expenses	15,000	15,000	Confirmed
7.	Damages to clothes	2,000	2,000	Confirmed
8.	Attender charges	1,500	1,500	Confirmed
9.	Loss of Amenities	15,000	15,000	Confirmed
10.	Mental agony	10,000	10,000	Confirmed
11.	Future medical expenses	---	25,000	Granted
	TOTAL	Rs.1,50,013/-	Rs.1,85,013/-	Enhanced by Rs.35,000

14. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,50,013/- is hereby enhanced to Rs.1,85,013/- together with interest at the rate of 7.5% per annum (excluding the default period, if any) from the date of petition till the date of deposit. The appellant is directed to pay necessary Court fee, if any, on the enhanced compensation. The second respondent/Insurance Company is directed to deposit the modified award amount now determined by this



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Court along with interest and costs, less the amount 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 award amount along with interest and costs, after adjusting the amount if any, already withdrawn. No costs.

11.09.2023

Index: Yes/No

Internet: Yes/No

Speaking order: Yes/ No

gba

To

- 1.The Additional District Judge-II,
Motor Accident Claims Tribunal,
Tiruvallur, Poonamallee.
- 2.The Section Officer,
VR Section,
High Court of Madras, Chennai – 600 104.



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SUNDER MOHAN,J.

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