



C.M.A.No.2495 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2023

CORAM : JUSTICE N.SESHASAYEE

C.M.A.No.2495 of 2023

Kuppammal

..... Appellant / Petitioner

Vs

1.Deejay Construction
P.G.Parthasarathy
Survey No.15/222,
Dayan Kodamanthangal
225, Pulipakkam Village
Chengalpattu
Kancheepuram - 603 001.

2.Reliance General Insurance Co. Ltd.
Reliance House, VI Floor
No.6, Haddows Road
Nungambakkam
Chennai - 600 006.

..... Respondents / Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 praying to enhance the compensation amount made in the judgment and decree dated 31.08.2021 in M.C.O.P.No.5496 of 2014 on the file of the Motor Accident Claims Tribunal in the II Court of Small Causes, Chennai by allowing this Civil Miscellaneous Appeal.



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For Appellant : Mr.V.Tamilamudhu
[No appearance]

For Respondents : Mr.P.Suresh Srinivasan for R2
R1 - Dispensed with

JUDGMENT

In a freak accident involving the lorry of the first respondent, the appellant herein has lost her vision to the right eye. The accident had occurred when the tyre of the lorry burst, owing to which, a stone on the road flew and hit the right eye of the victim.

2. Seeking compensation, the victim approached the Tribunal, at whose instance she was examined by the medical board, which assessed her disability at 30%. Treating the same as functional disability, the Tribunal notionally fixed the monthly income of this 53 year old victim at Rs.10,000/-, to which it added another 10% towards future prospects and applied 11 as multiplier, and had arrived at a compensation under the loss of functional disability at Rs.4,35,600/-. After including all other conventional / non-pecuniary heads of compensation, the Tribunal arrived at total compensation of Rs.5,57,600/- , and directed the second respondent to pay the said amount



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along with interest at the rate of 7.5% per annum. The break-up of the award components are as below :

<i>Sl.No.</i>	<i>Heads of Compensation</i>	<i>Amount Awarded by Tribunal (Rs.)</i>
1	Loss of earning	4,35,600.00
2	Attendant charges	12,000.00
3	Pain and suffering	75,000.00
4	Loss of amenities	10,000.00
5	Loss of expectation of life	10,000.00
6	Extra nourishment	10,000.00
7	Transportation charges	5,000.00
Total :		5,57,600.00

Aggrieved by the perceived inadequacy of the compensation, the claimant is now before this Court.

3. The learned counsel for the second respondent submitted that given the fact that the accident had taken place in 2014, and that the petitioner claimed herself to be a contract labour earning Rs.10,000/- per month, and that no materials were produced to prove her earning, the notional income fixed by the Tribunal is reasonable, and the manner in which it was calculated by the Tribunal cannot also be questioned.



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4. Heard the learned counsel for the second respondent. This Court confirms the compensation awarded under the head of functional disability (the Tribunal refers it as 'loss of earning') at Rs.4,35,600/- However, the Tribunal has not awarded anything towards loss of earning during the period when she was treated and tried to work with her single eye. On the other conventional heads too, the compensation paid appears a bit unrealistic. Accordingly, this Court revisits the compensation awarded by the Tribunal and it is indicated in the table below :

<i>Sl.No.</i>	<i>Heads of Compensation</i>	<i>Revised Award Amount (Rs.)</i>
1	Functional disability	4,35,600.00
2	Loss of income for 6 months (Rs.10,000/- x 6 months)	60,000.00
3	Attendant charges	30,000.00
4	Pain and suffering	75,000.00
5	Loss of amenities	90,000.00
6	Extra nourishment	30,000.00
7	Transportation charges	20,000.00
Total :		7,40,600.00

5. 7. To conclude, the appeal is allowed, and the compensation is enhanced from Rs.5,57,600/- to **Rs.7,40,600/-**. The second respondent-insurance company is directed to deposit the entire compensation with interest at the



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rate of 7.5% per annum less any amount which has been already deposited if any, within a period of six weeks from the date of receipt of a copy of this order. The claimants are required to pay the necessary court fee for the enhanced amount, if any. No costs.

19.12.2023

Index : Yes / No

Speaking order / Non-speaking order
ds

To:

1.The Judge
II Court of Small Causes
Motor Accident Claims Tribunal
Chennai.

2.The Section Officer
VR Section
High Court, Madras.



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N.SESHASAYEE.J.,

ds

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