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C.M.A No.254 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2023

CORAM

MR.JUSTICE N.SESHASAYEE

C.M.A. No.254 of 2022

V.Manjula

... Appellant

Vs.

1.P.Thirunavukarasu

2.Universal Sompo General Insurance Co. Ltd.

"Vadjiram Towers" 1st Floor

Plot No.103, New No.44, Old No.39

Halls Road, Egmore

Chennai - 600 008

... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree in M.C.O.P. No.1014 of 2015 dated 23.07.2019 on the file of Special Sub Judge No.1, Motor Accident Claims Tribunal (Small Causes Court), Chennai.

For Appellant : Mr.A.Shanmugaraj

For Respondents : Mrs.R.Sreevidhya for R2
R1 - Notice dispensed with



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JUDGMENT

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In an accident that took place on 16.06.2014, the appellant herein, a passenger of an auto-rickshaw bearing Registration No.TN-09 BE-3513, fell down and suffered injuries to her wrist. The medical evidence is to the effect that she had suffered 50% disability. The victim was also in the hospital for nine days. For the injuries suffered by her, the victim had approached the Tribunal for compensation in M.C.O.P. No.1014 of 2015. The Tribunal had awarded a sum of Rs.2,18,250/- as compensation and reduced the same by 10% on the ground that the victim had contributed towards contributory negligence of the accident on the ground that she was a passenger of an overcrowded share auto. The break-up details of the compensation awarded by the Tribunal is as below:

1.Disability	: Rs.1,50,000/-
2.Pain and suffering	: Rs. 20,000/-
3.Transportation	: Rs. 3,000/-
4.Medical Expenses	: Rs. 1,000/-
5.Extra Nourishment	: Rs. 10,000/-
6.Attender charges	: Rs. 2,250/-
7.Loss of earning	: Rs. 12,000/-
8.Loss of future prospectus	: Rs. 20,000/-



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Total compensation is fixed at : Rs.2,18,250/-

90% of the compensation : Rs.1,96,425/-

2. Challenging the perceived inadequacy of the award, the victim is now before the court.

3. Heard both sides and the line of arguments are predictable lines.

4. Learned counsel for the appellant, would contend that the victim was admittedly 45 years old and the injury to her wrist has disabled her from doing even ordinary domestic work. After considering the rival submissions and perusing the records, this court deems it appropriate to determine the compensation payable for the disability at Rs.5,000/- for every percentage of disability in the place of Rs.3,000/-, which the Tribunal had followed. This court also modifies few conventional heads of compensation and it is as below:



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<i>Sl. No.</i>	<i>Heads of compensation</i>	<i>Amount</i>	<i>Result</i>
1.	Disability (Rs.5,000 x 50)	Rs.2,50,000/-	modified
2.	Pain and suffering	Rs 20,000/-	retained
3.	Transportation	Rs. 5,000/-	modified
4.	Medical Expenses	Rs. 1,000/-	retained
4.	Extra Nourishment	Rs. 15,000/-	modified
5.	Attender charges	Rs. 10,000/-	modified
6.	Loss of earning	Rs. 30,000/-	modified
7.	Loss of future prospects	Rs. 20,000/-	retained
	Total	Rs.3,51,000/-	enhanced

5. It may be true that the victim might be a passenger in an overcrowded auto, but it does not borne out by evidence whether she was an additional passenger or a passenger who falls within the permitted number of passengers. Therefore, the benefit of doubt is given to the victim and this court sets aside the finding as to the contributory negligence attributed to the victim.

6. In fine, this court allows the appeal. The compensation awarded by the



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Tribunal is enhanced from Rs.1,96,425/- to Rs.3,51,000/-. The second respondent/insurance company had already deposited the sum awarded by the Tribunal and it is now directed to deposit the differential sum with interest at the rate of 7.5% per annum less interest for 114 days (delay in re-presenting the appeal), within a period of six weeks from the date of receipt of a copy of this judgment. The appellant/claimant is now required to pay additional court fee on the enhanced value of the compensation, if any. No costs.

29.11.2023

Asr

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

The Special Sub Judge No.1,

Motor Accident Claims Tribunal (Small Causes Court), Chennai.

N.SESHASAYEE, J.

Asr



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