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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKA RAMAN

C.M.A.No.2937 of 2022

Varalakshmi

...Appellant

Vs.

1.Santhosh Supplies,
No.68, Vinayakar Koil Street,
Padapai, Chennai – 601 301.

2.The Manager,
ICICI Lombard General Insurance Co.Ltd.,
No.84/85, Wall Tax Road,
Chennai – 600 003.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree dated 20.06.2022, in M.C.O.P.No. 6616 of 2017, on the file of the Motor Accidents Claims Tribunal, (in the VI Court of Small Causes), Chennai.

For Appellant : Mr.Amar Dineshbhai Pandiya

For R1 : Dispensed with

R2 : Mrs.R.Sreevidhya



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J U D G M E N T

The appellant is the claimant in M.C.O.P.No. 6616 of 2017 on the file of the Motor Accidents Claims Tribunal, the VI Court of Small Causes, Chennai. She has filed the above said claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation of a sum of Rs.20,00,000/- for the injuries sustained by her in a road accident that took place on 22.07.2017.

2. The brief case of the appellant/claimant is as follows:

(i) The appellant/claimant was aged 35 years on the date of the accident. She was doing a water business and earning a sum of Rs.20,000/- per month.

(ii) On 22.07.2017, at about 13.00 hours., the petitioner was traveling in a van bearing Registration No.TN 03 J 4430 at 200 feet road near SRF Company junction, Manali, Chennai. At that time, a Tipper Lorry bearing Registration No.TN 11 H 5563 driven by its driver in a rash and negligent manner, came at a dangerous speed from same direction and dashed behind the petitioner. Due to the said accident, the appellant/claimant sustained (i) Head injury (ii) Pelvic fracture and multiple injuries and fractures all over her body.



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(iii) Immediately, after the accident, the appellant/claimant was taken to Manali Anand Hospital. The rash and negligent riding of the rider of the above said tipper lorry was a sole reason for the above said accident. There was no negligence on the part of the appellant/claimant.

3. The owner of the tipper lorry bearing Registration No. TN 11 H 5563, was absent before the Tribunal, and therefore, he was set ex-parte. The ICICI Lombard General Insurance Company Limited contested the claim petition. Before the Tribunal, on the side of the appellant/claimant, PW1 to PW3 were examined and Exs.P1 to Ex.P11 were marked. On the side of the respondents, R.W.1 was examined and Ex.R1 was marked and as a Court exhibit Ex.C1 is marked.

4. After going through the oral and documentary evidence adduced before it, the Tribunal awarded a sum of Rs.1,67,999/–, which is rounded off to a sum of Rs.1,68,000/–, together with interest at the rate of 7.5% per annum from the date of filing of the petition till the date of deposit and is payable by the second respondent on behalf of the first respondent. Not satisfied with the quantum of compensation awarded by the Tribunal, the claimant has filed the present appeal under Section 173



of the Motor Vehicles Act, 1988.

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5. After hearing both the parties and perusing the materials available on records, it is seen that the rash and negligence fixed on the part of the rider of the said tipper lorry is not in dispute and the same is hereby confirmed.

6. The learned counsel appearing for the appellant/claimant would contend that in the above said accident, the appellant/claimant has suffered (i) Head injury (ii) Pelvic fracture and multiple injuries and fractures all over her body. He would contend that the appellant/claimant was admitted as an in-patient in Anand Hospital on 22.07.2017. However, the Tribunal has awarded a meagre amount as a compensation to the appellant/claimant. Therefore, he would contend that the compensation awarded by the Tribunal should be enhanced.

7. The learned counsel appearing for the second respondent- ICICI Lombard General Insurance Company Limited would contend that the appellant/claimant has not suffered any 'functional disability', but, the Tribunal has adopted a multiplier method for granting the award and the same is erroneous. The learned counsel for the Insurance Company also disputed the age, vocation and monthly income of the injured claimant and contended that the quantum of compensation claimed by



the injured claimant is highly excessive.

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8. It is seen from the records that the claimant has been an inpatient for more than 11 days. The claimant suffered severe head injury, Pelvic Fracture and multiple injuries and fractures all over her body. The injuries suffered by her would not only affect her job but also her day to day activities. The Tribunal has granted a sum of Rs.3000/- per percentage and awarded a sum of Rs.72,000/- [Rs.3,000/- X 24] under the head of Disability. The said sum is enhanced to a sum of Rs.96,000/- [Rs.4,000/- per percentage X 24]. As regards, the compensation under the head of 'Loss of Earning', the Tribunal has awarded a sum of Rs.30,000/-, which sum is enhanced to a sum of Rs.60,000/-. Likewise, a sum of Rs.20,000/- granted under the head of Pain and Sufferings is enhanced to a sum of Rs.25,000/-.

9. A sum of Rs.5,000/- granted by the Tribunal under the head 'transportation' is enhanced to a sum of Rs.10,000/-. Since, the appellant/claimant was admitted as an in-patient for more than 11 days, a sum of Rs.5,000/- awarded towards the 'attender's charges', is enhanced to a sum of Rs.15,000/-. Likewise, a sum of Rs.5,000/- granted under the head of "extra nourishment" is enhanced to a sum of Rs.10,000/-. The Tribunal has granted a sum of Rs.30,999/- to the appellant/claimant towards 'medical expenses' and the same is hereby



confirmed.

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10. Accordingly, the award of the Tribunal in M.C.O.P.No. 6616 of 2017 is modified as follows:

<i>Sl. No.</i>	<i>Particulars</i>	<i>Amount granted by the Tribunal</i>	<i>Amount granted by this Court</i>
1.	Medical expenses	Rs.30,999/-	Rs.30,999/-
2.	Transportation	Rs.5,000/-	Rs.10,000/-
3.	Extra Nourishment	Rs.5,000/-	Rs.10,000/-
4.	Attender Charges	Rs.5,000/-	Rs.15,000/-
5.	Disability	Rs.72,000/- (Rs.3,000/- x 24)	Rs.96,000/- (Rs.4,000/- x 24)
6.	Loss of Earnings	Rs.30,000/-	Rs.60,000/-
7.	Pain and sufferings	Rs.20,000/-	Rs.25,000/-
	Total	Rs.1,67,999/- rounded off to Rs.1,68,000/-	Rs.2,46,999/-

The compensation awarded by the Tribunal is enhanced from Rs.1,68,000/- to a sum of Rs.2,46,999/- which shall carry interest at the rate of 7.5% per annum.



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11. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed to the limited extent indicated above. No costs.

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.1,68,000/- to Rs.2,46,999/-.

(iii) The appellant/claimant is directed to pay the court fee for the enhanced compensation amount, if any, and the Registry is directed to draft the decree only after the receipt of court fee.

(iv) The second respondent/ICICI Lombard General Insurance Co. Ltd., is directed to deposit the enhanced compensation amount awarded by this court, i.e., Rs.2,46,999/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit of the amount to the credit of M.C.O.P.No. 6616 of 2017, dated 20.06.2022, on the file of the Motor Accidents Claims Tribunal, VI Court of Small Causes at Chennai within a period of eight weeks from the date of receipt of a copy of this judgment.



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(v) On such deposit being made by the second respondent, the appellant/claimant is permitted to withdraw the same, in the manner known to law.

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Index : Yes/No
Speaking/Non-speaking order

To

1.The Motor Accidents Claims Tribunal,
The VI Court of Small Causes at Chennai

2.The Section Officer,
V.R.Section,
High Court,
Madras.



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RMT.TEEKA RAMAN, J.

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