



WEB COPY



C.M.A.No.2281 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2023

CORAM

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.2281 of 2019

Mala

... Appellant

..Vs..

1.T.Karpagam

2.The Manager

M/s.New India Assurance Company Limited

2, Woods Road, Anna Salai

Chennai-2.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, as against the judgment and decree dated 22.10.2010 made in MCOP No.118 of 2009 on the file of the Motor Accidents Claims Tribunal/Chief Judicial Magistrate, Thiruvallur.

For Appellant

: Mr.N.Kesavaraj
For Mr.D.Baskar

For Respondents

: No Appearance



C.M.A.No.2281 of 2019

JUDGMENT

WEB COPY

This appeal has been filed by the claimant seeking enhancement of compensation under the impugned award dated 22.10.2010 passed by the Motor Accident Claims Tribunal/ Chief Judicial Magistrate, Thiruvallur, in MCOP No.118 of 2009.

2. The Appellant/claimant unsatisfied with the quantum of compensation awarded by the Tribunal under the impugned award, has preferred this appeal seeking for enhancement.

3. The Motor Accidents Claim Tribunal, under the impugned award, has awarded a compensation of Rs.50,000/- together with interest and costs to the Appellant/claimant which is detailed hereunder:

<i>Heads</i>	<i>Award Amount (Rs.)</i>
Future damages	35,000/-
Pain and Suffering	10,000/-
Medical and other miscellaneous expenses	5,000/-
Total	50,000/-

4. Before the Tribunal, the Appellant/claimant has filed eight



C.M.A.No.2281 of 2019

documents which were marked as Ex.P1 to Ex.P8 and two witnesses were examined on her side namely, the claimant herself as PW1 and the Doctor who examined her, as PW2. On the side of the 2nd respondent/Insurance Company, neither any document was filed nor any witness examined before the Tribunal. The 1st respondent was set exparte.

5. The accident occurred on 09.05.2008 at about 04.00 p.m at Villivakkam Bajanai Koil Street, 2nd Lane Junction. The Thirumangalam Police Station, Traffic Investigation Wing registered a case in Crime No.236 of 2008 under Section 337 IPC and 184 of M.V Act. The appellant/claimant sustained grievous injuries viz., i) fracture on her right fore arm, ii) grievous injuries on her head and also injuries all over her body. The Tribunal adjudicated the issues with reference to the documents and evidences produced by the respective parties. The negligence was attributed against the driver of the mini lorry. The findings of the Tribunal is that the mini lorry driver had driven the vehicle in a rash and negligent manner which resulted in an accident.

6. The doctor has assessed the disability at 40%, without giving any



C.M.A.No.2281 of 2019

treatment to the appellant/claimant and even he had not taken x-ray for the injuries sustained by the claimant. However, considering the age and nature of injuries sustained by the appellant/claimant, the Tribunal has awarded a sum of Rs.35,000/- towards future damages. Hence, the compensation awarded by the Tribunal under the head of future damages is a correct assessment.

7. As seen from the award, the compensation awarded by the Tribunal towards pain and suffering is inadequate and the same has to be enhanced to Rs.15,000/-. Further, the Tribunal has failed to award any compensation towards transport to hospital and extra nourishment. Hence, it would be appropriate to award a sum of Rs.2,500/- towards transport to hospital and Rs.5,000/- towards extra nourishment.

8. Insofar as the compensation awarded under the head of medical and other miscellaneous expenses is concerned, the assessment of the compensation under the said head by the Tribunal is a just compensation and it does not call for any interference by this Court.



C.M.A.No.2281 of 2019

WEB COPY 9. For the forgoing reasons, the compensation awarded by the Tribunal under the impugned award is modified as follows:

<i>Heads</i>	<i>Amount awarded by the Tribunal</i>	<i>Award Amount by this Court (Rs.)</i>
Future Damages	35,000/-	35,000/-
Pain and suffering	10,000/-	15,000/-
Transport to Hospital	Nil	2,500/-
Extra Nourishment	Nil	5,000/-
Medical and other miscellaneous expenses treatment	5,000/-	5,000/-
Total	50,000/-	62,500/-

10. In the result,

(i) This appeal is partly allowed and the compensation awarded by the Tribunal is enhanced from 50,000/- to Rs.62,500/- with interest at the rate of 7.5% p.a. from the date of claim petition till the date of realisation.

(ii) The second Respondent/Insurance Company is directed to



C.M.A.No.2281 of 2019

deposit the modified amount i.e, Rs.62,500/- along with interest and costs, after deducting the amount already deposited, if any, to the credit of MCOP No.118 of 2009 within a period of six weeks from the date of receipt of a copy of this Judgment.

(iii) On such deposit being made, the Tribunal is directed to transfer the award amount along with accrued interest as per the order of this Court to the Appellant/claimant through RTGS within a period of two weeks thereafter. No costs.

13.02.2023

Index:Yes/No

Speaking/Non-speaking order:Yes/No

uma

To

1. The Chief Judicial Magistrate,
(Motor Accidents Claims Tribunal),
Thiruvallur.

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

A.A.NAKKIRAN, J.

uma



WEB COPY



C.M.A.No.2281 of 2019

C.M.A.No.2281 of 2019

13.02.2023