



C.M.A.(MD).No.292 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD).No.292 of 2023

Maharajothi

... Appellant

-Vs-

1.Rajesh Kannan

2.Reliance General Insurance Company Limited
through its Branch Manager,
Tirunelveli.

... Respondents

PRAYER: The Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.No. 984 of 2018 on the file of the Motor Accident Claims Tribunal, Principal Sub Court, Tirunelveli, dated 04.02.2022.

For Appellant : Mr.T.Selvakumaran

For R2 : Mr.V.Sakthivel



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J U D G M E N T

Not satisfied with the award passed by the Motor Accident Claims Tribunal, Principal Sub Court, Tirunelveli in M.C.O.P.No.984 of 2018, dated 04.02.2022, the claimant has filed this appeal for enhancement of compensation.

2. Mr.V.Sakthivel, learned counsel takes notice for the second respondent/Insurance Company.

3. The brief facts leading to the filing of this appeal is as follows:

On 20.04.2018, at about 2.30 p.m., while the claimant was travelling as a pillion rider in a motorcycle bearing Registration No.TN 72 AL 7090, an auto bearing Registration No.TN 72 BD 2490 came in a rash and negligent manner and dashed against the two wheeler. As a result, she suffered injury and fracture below the knee and she was taken treatment in the hospital. Hence, she has filed the claim petition before the Tribunal seeking compensation of Rs.10,00,000/-. The Insurance Company has disputed the negligence on the part of the driver of the auto. Based on the evidence adduced, the Tribunal has fixed the negligence on the



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part of the driver of the auto and awarded a sum of Rs.4,64,916/- as compensation in the following manner:

S. No	Description	Amount awarded by the Tribunal
1.	Future Loss of income	Rs.1,70,000/-
2.	Medical expenses	Rs.1,65,916/-
3.	Extra nourishment	Rs.10,000/-
4.	Transportation	Rs.5,000/-
5.	Pain and suffering	Rs.25,000/-
6.	Loss of income	Rs.84,000/-
7.	Attender charges	Rs.5,000/-
	Total	Rs.4,64,916/-

Challenging the same, the present appeal has been filed.

4. The only contention of the learned counsel appearing for the appellant is that the Tribunal has not awarded compensation taking note of the fact that the injured suffered fracture on the knee and she is not in a position to sit properly. Therefore, under the head of loss of amenities and pain and suffering, the award amount has to be enhanced.



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5. This Court has perused the entire materials. In fact, the Medical Board has assessed 34% disability as partial permanent disability. The Tribunal has awarded a sum of Rs.1,70,000/- (Rs.5,000/- x 34%). This Court is of the view that the same is reasonable and it is only a partial permanent disability. Further, the evidence also clearly indicate that the plate fixed in the legs has been removed and surgery also conducted. Considering this aspect, this Court is of the view that the Tribunal ought to have awarded a sum of Rs.25,000/- extra towards loss of pain and suffering and Rs.25,000/- towards loss of amenities. Therefore, this Court awarded a sum of Rs.50,000/- towards pain and suffering and loss of amenities. Thus, the total compensation comes to Rs.5,14,916/- (Rs.4,64,916/- + Rs.50,000/-).

6. In the result, the Civil Miscellaneous Appeal is allowed. No costs.

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To

The Motor Accident Claims Tribunal,
Principal Sub Court,
Tirunelveli.



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N.SATHISH KUMAR, J.

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