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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.412 of 2023

S.Jansi Rani

..Appellant

.VS.

1.Mrs.Vijayakumari

2.New India Assurance Co., Ltd.,
Bombay Mutual Building,
6th Floor, N.S.C., Bose Road,
Chennai – 600 001.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the Decree and Judgment dated 11.03.2022 passed in MCOP No.2051 of 2018 by the Motor Accident Claims Tribunal, IV Court of Small Causes at Chennai.

For Appellant : Mr.S.Abisheik

For Respondent : Mr.T.Jayaraman for
Mr.K.Elango for R2



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JUDGMENT

The claimant not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP No.2051 of 2018, dated 11.03.2022 has filed this appeal seeking for enhancement of compensation.

2.The case of the claimant is that on 21.02.2018, she was riding the two wheeler along Velachery Main Road and at about 7 am, the driver of the offending vehicle drove the car in a rash and negligent manner. As a result of which, the car dashed on the two wheeler and the claimant sustained the following injuries:

- Polytrauma: Severe Traumatic Brain injury and Right FTP Acute SDH with Mass effect and Midline shift (Marshal Grade 4) and left Clavicle fracture.

3.The claimant underwent treatment as an inpatient for nearly 53 days and the disability was ascertained by the Medical Board as 71%. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.



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4. The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the offending vehicle. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.32,95,066/- under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Disability	15,20,820
2.	Medical Expenses	15,60,746
3.	Future Medical Expenses	50,000
4.	Loss of Income	22,500
5.	Pain and Sufferings	25,000
6.	Transportation Expenses	15,000
7.	Nutrition Expenses	25,000
8.	Damages to Clothes	1,000
9.	Attender Charges	30,000
10.	Loss of Amenities	25,000
11.	Mental Agony	20,000
	Total	32,95,066

5. The above compensation was directed to be paid with interest at the rate of 7.5% per annum.



6.The claimant not being satisfied with the quantum of compensation awarded by the Tribunal has filed the present appeal before this Court seeking for enhancement of compensation.

7.Heard Mr.S.Abisheik, learned counsel appearing on behalf of the appellant and Mr.T.Jayaraman, learned counsel appearing on behalf of the 2nd respondent.

8.This Court has carefully considered the submissions made on either side and also the materials available on record.

9.The main ground that was raised by the learned counsel for the appellant was that the Tribunal had fixed the monthly income at Rs.7,500/- which is on the lower side. The accident in this case had taken place in the year 2018 and it is the specific case of the claimant that she was working as a Lab Technician and was earning a sum of Rs.10,000/- per month. To substantiate the same, the claimant had also examined PW2 who is the employer of the claimant.

10.This Court is inclined to fix the monthly income at Rs.10,000/- per month. Considering the age of the claimant, her occupation and also the



evidence of PW2. Accordingly, the compensation under the head of disability is calculated as follows:

$$\text{Rs.}10,000 + 4000 (40\%) \times 12 \times 17 \times 71/100 = \text{Rs.}20,27,760/-$$

11.The Tribunal has separately granted compensation under the head of loss of income at Rs.22,500/-. Since this Court is granting compensation to the claimant under the disability by adopting multiplier method and also by adding the future prospects, a separate compensation cannot be granted under the head of loss of income. Hence, the compensation granted under this head stands deleted.

12.The compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court.

13.In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:



S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Disability	20,27,760
2.	Medical Expenses	15,60,746
3.	Future Medical Expenses	50,000
4	Pain and Sufferings	25,000
5	Transportation Expenses	15,000
6	Nutrition Expenses	25,000
7	Damages to Clothes	1,000
8	Attender Charges	30,000
9	Loss of Amenities	25,000
10	Mental Agony	20,000
	Total	37,79,506

14.The compensation awarded by the tribunal at Rs.32,95,066/- is enhanced to Rs.37,79,506/-. The second respondent insurance company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.



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

01.07.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
ssr

To

The Motor Accident Claims Tribunal, IV Court of Small Causes at Chennai.



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N. ANAND VENKATESH., J

SSR

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