



C.M.A. No. 273 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE K. RAJASEKAR

C.M.A. No.273 of 2022

Rasamma @ Rasammal

... Appellant / Petitioner

Vs.

1. Eswari

2. The United India Insurance Co. Ltd.,
Divisional Office, HUB, Ranga Building,
Peramanur Main Road, Peramanur,
Salem - 636 007.

... Respondents / Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to enhance the award in the Fair Order dated 28.07.2021 made in M.A.C.T.O.P. No.317 of 2017, on the file of the Motor Accident Claims Tribunal/ Chief Judicial Magistrate Court, Salem.

For Appellant : Ms. P. Neelavathi
(For M/s. C. Paraneedharan)

For R1 : No Appearance

For R2 : Mrs. T. Suryakala
(For Ms. Rahnathara)



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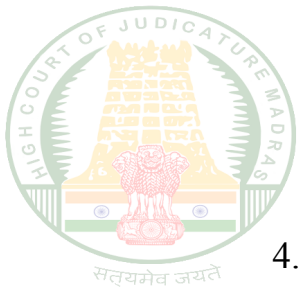
JUDGMENT

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This Civil Miscellaneous appeal has been filed by the claimant seeking enhancement of compensation awarded in M.A.C.T.O.P. No.317 of 2017 dated 28.07.2021, on the file of the Motor Accident Claims Tribunal/ Chief Judicial Magistrate Court, Salem.

2. For the sake of convenience, the parties are referred herein according to their litigative status and rank before the Tribunal. The brief facts leading to filing of this appeal is as follows:

3. The case of the claimant is that, she had filed claim petition seeking compensation for a sum of Rs.15,00,000/- by invoking Section 166 of the Motor Vehicles Act, 1988, for the injuries sustained by her on 13.12.2016. She further stated that, she is aged 67 years at the time of accident and while she was doing cleaning work at Salem Lorry Association Petrol Bunk, the driver of the first respondent's vehicle bearing Registration No.TN-30-AU-8098, driven the vehicle in a rash and negligent manner, dashed against her, thereby, she sustained grievous injuries.



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4. Before the Tribunal, the first respondent, who is the owner of the offending vehicle remained ex-parte. The second respondent - insurance company contested the claim disputing the negligence as well as quantum of compensation, claimed by the claimant. The claimant examined herself as P.W.1 and marked Exs.P.1 to P.10 and on the side of the second respondent, the Motor Vehicle Inspector Senthil was examined as R.W.1 and Additional Manager of the second respondent company was examined as R.W.2 and Exs.R.1 and R.2 were marked. The disability certificate issued by the Medical Board is marked as Ex.C.1.

5. The Tribunal after considering the evidence placed on record, accepted the case of the claimant, awarded a sum of Rs.2,41,423/- as compensation along with interest @ 7.5% per annum from the date of petition till the date of realization and directed the second respondent - insurance company to pay the compensation.

6. Aggrieved over the quantum of compensation, the claimant has come forward with this appeal. The second respondent - insurance company has not filed any appeal, challenging the award of the Tribunal.



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7. The learned counsel appearing for the appellant/ claimant submits that the quantum of compensation awarded by the Tribunal is on the lower side, more particularly, the compensation awarded under the head disability is on the lower side, further no compensation has been awarded under the head future medical expenses.

8. Per contra, the learned counsel appearing for the insurance company submits that the compensation quantified by the Tribunal is excessive, however, they have not filed any appeal against the order of the Tribunal, hence prays to dismiss the appeal.

9. I have considered the submissions made on both sides and perused the entire materials available on record.

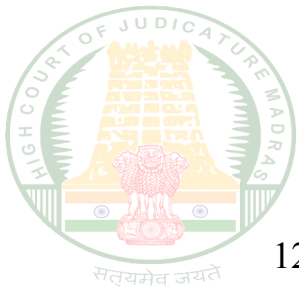
10. The Tribunal by relying on the disability certificate - Ex.C.1 and the opinion made by the Medical Board, regarding the disability of the claimant, accepted that the claimant has sustained 15% disability, thereby, fixed Rs.5,000/- per percentage of disability and awarded Rs.75,000/- under the



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head disability. Further, the Tribunal had awarded Rs.35,000/- under the head pain and suffering, Rs.15,000/- under the head loss of convenience, Rs.4,000/- towards Attendant charges, Rs.3,000/- each under the head transportation and extra nourishment, further awarded compensation towards the medical expenses, as claimed by the claimant. Considering the nature of injuries sustained by the claimant, the compensation awarded by the Tribunal in the above heads are reasonable and this Court finds that, there is no need for enhancing the same.

11. Apart from that, the Tribunal has also awarded six months loss of income towards temporary disablement period, after fixing Rs.6,500/- per month, as the income of the claimant. Considering the nature of injuries and period of medical treatment, granting six months loss of income towards temporary disablement period is excessive, however, the compensation granted under other heads are already accepted by this Court in earlier paragraph, I am of the view that there is no need to modify the same, hence the compensation awarded under the head loss of income during temporary disablement period is hereby confirmed.



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12. The next contention raised by the learned counsel appearing for the claimant is that the Tribunal has not awarded any compensation towards future medical expenses. As far as future medical expenses, there is no evidence placed on record, to show that the claimant requires future treatment or she would incur any future medical expenses for the same. Therefore, the Tribunal has not awarded compensation towards future medical expenses, I am of the view that the same is proper.

13. In view of the above, this Court finds that the compensation awarded by the Tribunal is just and fair, therefore, this Court finds no merit in this appeal.

14. In the result, this Civil Miscellaneous Appeal is dismissed, the order of the Tribunal is hereby confirmed. Consequently, connected miscellaneous petitions, if any stand closed. There shall be no order as to cost.

06.12.2024

stn

Index: Yes/No

Speaking Order: Yes/No

Neutral Citation Case: Yes/No



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To:

1. The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Salem.
2. The Section Officer,
V.R.Section,
High Court, Chennai.



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K. RAJASEKAR, J.

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