IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2024

CORAM :

The Hon'ble Mr. Justice Krishnan Ramasamy

C.M.A.No.1128 of 2023

Kumudha ... Appellant

Vs.

1. Kumaran

2. National Insurance Company Limited,
   Third Party Motor Claims Office,
   Third Floor, No.751, Anna Salai,
   Chennai 600 002. ... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the Judgment and Decree dated 20.09.2021 and made in M.A.C.T.O.P.No.1419 of 2016 on the file of the Motor Accident Claims Tribunal (in the II Court of Small Causes, Chennai).

For Appellant	:	Mr.F.Terry Chella Raja
For R2	:	Mr.S.Arun Kumar

JUDGEMENT

This Civil Miscellaneous Appeal has been filed by the appellant/claimant, challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal in M.A.C.T.O.P.No.1419 of 2016 dated 20.09.2021.

2. On 03.07.2018, at about 4.30 a.m., when the appellant/claimant was doing sanitary work near Guindy check post, Velachery, at that time, she was hit by a car bearing Reg.No.TN-31-BA-8479, which was driven by its driver in a rash and negligent manner. Due to the impact, the appellant/claimant sustained grievous injuries all over her body. Hence, the appellant/claimant, made a claim petition before the Tribunal seeking a sum Rs.50,00,000/- as compensation.

3. On consideration of oral and documentary evidence, the Tribunal has awarded a sum of Rs.7,37,400/-. Being not satisfied with the same, the appellant/claimant has preferred the present appeal.

4. The learned counsel for the appellant/claimant would submit

that at the time of accident, the appellant was aged about 34 years, working as a Sanitary worker and was earning a sum of Rs.10,000/- per month. However, without considering the same, the Tribunal had fixed the monthly notional income of the appellant/claimant at Rs.9,000/- per month, which is on the lower side. Further, he submitted that the appellant had restricted her claim with regard to the fixation of the notional income. Hence, he requested this Court to fix the notional income of the appellant/claimant at Rs.10,000/- per month, which would be just and reasonable. Accordingly, he prays for appropriate enhancement of the compensation in favour of the appellant.

5. The learned counsel for the second respondent/Insurance Company fairly submitted that, this Court may fix any appropriate amount in respect of notional income of the appellant.

6. Heard the learned counsel for the appellant and the learned counsel appearing on behalf of the second respondent and perused the materials available on record.

7. In the present case, as noticed above, at the time of accident, the

appellant was a Sanitary worker and aged about 34 years, earning a sum of Rs.10,000/- per month. The notional income fixed by the Tribunal at a sum of Rs.9,000/-, is on the lower side. Taking into consideration of the facts and circumstances of the case and submission made by the learned counsel for the appellant, this Court feels it would be appropriate to fix the notional income of the appellant/claimant at Rs.10,000/- per month, which is just and fair. Thus, by fixing the notional income of the appellant at Rs.10,000/- per month; adding 40% future prospects as per the dictum laid down by the Hon'ble Apex Court, the total income is quantified at Rs.14,000/- per month; and by adopting multiplier of '15' as per the decision of Apex Court, the compensation towards “Loss of earning due to disability” is calculated at Rs.14,000/- x12x15x(30/100)=Rs.7,56,000/-.

8. Consequently, the sum of **Rs.6,80,400/-** awarded by the Tribunal under the head of 'Loss of earning due to disability' is hereby modified to **Rs.7,56,000/-**.

9. Insofar as the compensation awarded by the Tribunal under other heads are concerned, this Court finds that the same to be just and

proper and is hereby confirmed. Thus, the total compensation payable to the claimants under various Heads is as hereunder:-

Heads	***Awarded by the Tribunal (Amount in Rs.)***	***Awarded by this Court (Amount in Rs.)***
Loss of earning due to disability	**6,80,400/-**	**7,56,000/- (enhanced)**
Attender charges	12,000/-	12,000/-
Pain and sufferings	25,000/-	25,000/-
Extra nourishments	10,000/-	10,000/-
Transportation	10,000/-	10,000/-
Total	**7,37,400/-**	**8,13,000/-**

10. Accordingly, the Appeal is partly allowed and the impugned Award of the Tribunal is modified by enhancing the compensation amount from **Rs.7,37,400/-** to **Rs.8,13,000/-**. The second respondent/Insurance Company is directed to deposit the said amount to the credit of M.A.C.T.O.P.No.1419 of 2016 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. Upon such deposit being made, the Tribunal is directed

to transfer the entire amount to the bank account of the claimant, by way of RTGS, within a period of three weeks from the deposit or from the date of receipt of the Bank details obtained from the claimant or application for withdrawal from the claimants, whichever is earlier. It is made clear by this Court vide order dated 24.04.2023, that the appellant/claimant is not entitled to interest for the delay period of 299 days. The appellant/claimant is directed to pay the necessary Court fee for the enhanced compensation amount, if required. The Tribunal below shall not disburse the enhanced amount till such time the certified copy showing proof of payment of Court fee has been produced by the claimant. No costs.

04.03.2024

Index : Yes / No
NCC : Yes / No
jd

<u>Krishnan Ramasamy,J.,</u>
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To

1. The Motor Accident Claims Tribunal,
   II Court of Small Causes, Chennai.

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

C.M.A.No.1128 of 2023

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