



C.M.A.No.2875 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 10.01.2024	Pronounced on 31.01.2024
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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2875 of 2021

Chandra (47 years)
W/o.Duraisami
No.5/191, Melstreet, Nakkalpatti Post
Modikuppam, Krishnagiri 635 203

... Appellant

Vs.

1.C.Venkatachalam
S/o.Chinnamuniappan
No.228, Thirupathi Kottai
Nakkalpatti, Modikuppam
Krishnagiri Taluk and District 635 203

2.The Manager
Shriram General Insurance Company Ltd.,
Jaipur, Rajasthan 302 022

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 22.10.2019 made in MCOP.No.551 of 2018 on the file of the Motor Accident Claims Tribunal, Special Sub Judge, Krishnagiri.

For Appellant : Mr.S.P.Yuaraj



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For Respondents : Mr.K.Poomalai (for R2)

J U D G M E N T

The Appeal has been filed against the Judgment and Decree dated 22.10.2019 made in MCOP.No.551 of 2018 on the file of the Motor Accident Claims Tribunal, Special Sub Judge, Krishnagiri.

2.The claim Petitioner is the Appellant herein. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

3.The claim Petitioner filed MCOP.No.551 of 2018 on the file of the Motor Accident Claims Tribunal, Special Sub Judge, Krishnagiri, seeking compensation for the injuries sustained by her in a road traffic accident occurred on 16.10.2017. The Tribunal has awarded a sum of Rs.19,36,950/- with interest at the rate of 7.5%. Aggrieved against the same and seeking enhancement, she has preferred this Appeal.



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4.The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent are not under challenge in this Appeal. Accordingly, the finding rendered by the trial Court that the accident taken place due to the rash and negligent driving of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent are hereby confirmed.

5.During the trial, on the side of the claim Petitioner, PW1 was examined, Ex.P.1 to Ex.P.10 were marked and on the side of the Respondents, none was examined and no documents were marked.

6.Heard the learned counsel for the claim Petitioner and learned counsel for the Insurance Company.

7.Before the Tribunal, injured claim Petitioner was examined as PW1, Ex.P.8 is the certificate issued by the Medical Board, wherein disability was assessed as partial and permanent disability 60% and the claim Petitioner had taken treatment as inpatient from 16.10.2017 to 20.11.2017 for about 35 days



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as could be seen from Ex.P.2/discharge summary. As per Ex.P.7/discharge summary, the injured was sustained grievous injuries. From Ex.P.7, this Court finds that the injured was suffered by crush injury, compound tibia and fibula fracture and cut in popliteal artery and gastrocnemius muscles. Considering the above fact, the Tribunal has rightly applied multiplier method following the decision of the Hon'ble Apex Court in the case of ***Rajkumar Vs. Ajaykumar & another*** reported in ***2010 (2) TNMAC 581 SC***.

8. On perusal of the order passed by the Tribunal, I find that the Tribunal has awarded Rs.3,000/- per percentage for 60% of disability, which amounts to Rs.1,80,000/- and also applied multiplier method for loss of functional disability, which is not correct. Accordingly, Rs.1,80,000/- granted towards permanent disability is hereby vacated. The Tribunal has fixed notional income of the injured at Rs.8,500/-, the same is enhanced to Rs.10,000/-. The Tribunal has added 10% towards future prospects. Since the age of the injured at the time of the accident is 54, the Tribunal has rightly applied 11 as multiplier. The same are hereby confirmed. Therefore, by following the decision made by the Apex Court in ***Erudhaya Priya Vs. State Express Transport Corporation***



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Ltd., reported in **2020 (2) TN MAC 303 (SC)**, for the disability sustained by the injured, the compensation amount is reassessed as follows:

$$[\text{Rs.}10000 + 10\% \text{ of } 10000) \times 12 \times 11 \times 60\% = \text{Rs.}8,71,200/-$$

9. Based upon Ex.P.6 & Ex.P.10/Medical bills, the Tribunal has granted Rs.10,10,850/- towards Medical Expenses, Rs.14,000/- towards transportation charges. The same are hereby confirmed. The Tribunal has awarded a sum of Rs.18,000/- towards nutrition and attender charges, the same is enhanced to Rs.20,000/-. The Tribunal has awarded a sum of Rs.48,000/- towards pain and sufferings, the same is enhanced to Rs.50,000/-. The Tribunal has awarded a sum of Rs.48,000/- towards loss of amenities, the same is reduced to Rs.20,000/-.

<i>S.No.</i>	<i>Heads</i>	<i>Amount (Rs.)</i>
1	Permanent disability	871200
2	Pain and sufferings	50000
3	Medical expenses	1010850
4	Loss of amenities	20000
5	Transportation charges	14000
6	Nutrition and Attender charges	20000
	Total	1986050



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The Tribunal has awarded 7% interest per annum. The same is hereby confirmed.

10. In total, the claim Petitioner is entitled to a sum of Rs.19,86,050/- (Rupees Nineteen lakh eighty six thousand and fifty only).

11. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the award amount from Rs.19,36,950/- to Rs.19,86,050/- to the extent indicated above, with 7.5% interest per annum. No Costs.

(ii) the Insurance Company is directed to deposit the enhanced award amount before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) on such deposit being made, the claim Petitioner/Appellant is permitted to withdraw the entire enhanced award amount with accrued interest and costs, less the award amount, if any, already withdrawn, by filing necessary



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application before the Tribunal.

(iv) the claim Petitioner/Appellant is directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

31.01.2024

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

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To
The Special Sub Judge,
Motor Accident Claims Tribunal,
Krishnagiri.



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RMT.TEEKAA RAMAN.J,

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Pre-delivery Judgment made in

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Dated: 31.01.2024