



CMA No.2584 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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CORAM :

THE HONOURABLE **MR.JUSTICE RMT.TEEKAA RAMAN**

C.M.A.No.2584 of 2021

Judgment reserved on 22.02.2024	Judgment pronounced on 20.03.2024
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Appellant

Vs.

- 1.Ramraj
- 2.Ramana Gowda
- 3.The National Insurance Company Limited,
Maruti Vertical Division, No.10, 803-A,
8th Floor, Tower 3, Konnectur Buildng,
Opp: New Delhi Railway Station,
Bhavbhuti Marg, New Delhi - 110 002.
4. The National Insurance Company Limited,
1272-1273, Palaniappa Complex,
Mettur Road, Erode - 638 011.

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Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 17.03.2021 made in MCOP No.438 of 2018 on the file of the Motor Accident Claims Tribunal / Special District Judge, Erode.

For Appellant : Mr.T.S.Arthanareeswaran

For R-1 & R-2 : No appearance

For R3 & R4 : Mr.D.Bhaskaran



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JUDGMENT

The claim petitioner is the appellant herein seeking enhancement of compensation awarded in MCOP No.438 of 2018 on the file of the Motor Accident Claims Tribunal / Special District Judge, Erode.

2. The factum of accident, manner of accident, rash and negligent driving on the part of the driver of the vehicle belonging to the respondents 1 & 2, vehicle being insured with the third and fourth respondents / Insurance company and validity of the policy are not in dispute.

3. On the point of quantum of compensation, heard the learned counsel for the appellant as well as the third and fourth respondents / Insurance company and perused the records.

4. The claim petitioner examined herself as P.W.1 and marked as Exs.P1 to P20 and on behalf of the respondents, no oral or documentary evidence produced before the Tribunal. Ex.C1 is the Disability Certificate issued by the Medical Board. The rash and negligence are hereby confirmed.

5. From the discharge summary Ex.P7 and Ex.P8, this Court finds that the claim petitioner had suffered injuries are as follows:-



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Diagnosis:

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Comminuted fracture mid 1/3rd and lower 1/4th of tibia Rt.
Fracture lower 1/4th of fibula Rt.
Fracture base of 1st metatarsal bone Lt.
Comminuted fracture of Lt Zygomatic arch.
Fracture medial wall and floor of orbit Lt.
Fracture anterior and posterior wall of Lt.maxillary sinus.
and was taken treatment on 20.12.2017 under spinal anaesthesia

with tourniquet control closed reduction of the fracture both bones Rt.leg done and the tibia fixed with XPERT Tibia IM Nail and Bolts.

6. All the other fractures treated by conservative line of management and for the injuries she underwent surgery treatment period between 11.12.2007 and 01.11.2018 for a period about 15 days as an in-patient and as per Ex.P8-discharge summary, she was re-admitted for removable of the metal rod and was admitted in hospital and she was given treatment in the hospital and surgery was conducted on 23.09.2019 to 30.09.2019 and hence, she was in-patient for 8 days wherein main screw was removed and sufficient screw was closed and hence the tribunal has awarded a sum of Rs.50,000/- towards pain and sufferings and the same is hereby confirmed.

7. As per the Medical Bill along with Exs.P7 to P9. a sum of Rs.1,22,163/- was allowed and the same is hereby awarded.



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8. Considering the distance between the residential place and the hospital, this Tribunal has awarded a sum of Rs.7,300/- and Rs.15,000/- towards 'transportation' and 'attender charges' is enhanced to Rs.15,000/- and Rs.20,000/-

9. Considering the nature of injuries and the disability suffered by the appellant, the compensation awarded by the Tribunal towards 'Extra Nourishment', a sum of Rs.10,000/- is enhanced to Rs.15,000/-. The other heads are hereby confirmed.

The break-up details awarded by this Court is as follows -

<i>Sl. No</i>	<i>Heads under which the amount is awarded</i>	<i>Amount awarded by the Tribunal – Rs.</i>	<i>Amount awarded by this Court – Rs.</i>
1.	Loss of income	Rs.36,000/-	Rs.36,000/-
2.	Pain and sufferings	Rs.50,000/-	Rs.50,000/-
3.	Attender charges	Rs.15,000/-	Rs.20,000/-
4.	Transportation	Rs.7,300/-	Rs.15,000/-
5.	Extra Nourishment	Rs.10,000/-	Rs.10,000/-
6.	17% pecuniary loss	Rs.85,000/-	Rs.85,000/-
7.	Medical expenses	Rs.1,22,163/-	Rs.1,22,163/-
	Total	Rs.3,25,463/-	Rs.3,38,163/-

10. In total, the appellant is entitled to a sum of **Rs.3,38,163/-** (Rupees Three Lakhs Thirty Eight Thousand One hundred and Sixty Three only) as compensation.



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11. In fine,

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(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the award amount from **Rs.3,25,463/- to Rs.3,38,163/-**, to the extent indicated above, along with interest @ 7.5% per annum.

(ii) the second and third respondents/National 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, less the award amount if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) the appellant is directed to pay the court fee on the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

(v) No costs.

20.03.2024

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Index : Yes/No

Speaking/Non-speaking order



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To
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1.The Special District Judge,
Motor Accident Claims Tribunal,
Dharmapuri.

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



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RMT.TEEKAA RAMAN, J.

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