



C.M.A.No.2961 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.2961 of 2024

S.Vijayalakshmi

... Appellant / Petitioner

Vs.

1.Bombay Hardwares Private Limited,
Corner Estate No.39,
Sembudoss Street,
Chennai-600 001.

2.The Manager,
The Oriental Insurance Company Limited,
New No.116, Old No.115,
Prakasam Salai,
Chennai-600 001.

... Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 12.12.2023 made in M.C.O.P.No.6117 of 2017 on the file of the Motor Accident Claims Tribunal (In the II-Special Court of Small Causes) at Chennai.



C.M.A.No.2961 of 2024

For Appellant : Mr.S.Suriya Prakash

For Respondents : Mr.S.Arun Kumar for R2

J U D G M E N T

Aggrieved by the compensation awarded by the Tribunal in M.C.O.P.No.6117 of 2017, the appellant has come before this Court challenging the same by filing the present civil miscellaneous appeal.

2. It is the case of the claimant that on 03.05.2017 at about 09.40 a.m., when the petitioner was travelling as pillion rider in a motorcycle at Bakthavachalam Road near Abiramapuram Junction from west to east, the rider neutralized the bike and at that time, a car came in the same direction in a rash and negligent manner hit behind the motorcycle, due to which, she sustained grievous injuries. The first respondent is the owner of the car and the second respondent is the insurer of the car. Under these circumstances, the claim petition came to be filed by the claimant before the Tribunal, seeking compensation.

3. Before the Tribunal, on the side of the claimant, P.W.1 was



C.M.A.No.2961 of 2024

WEB COPY

examined and Exs.P1 to P9 were marked. On the side of the respondents, R.W.1 to R.W.3 were examined and Ex.R1 to Ex.R3 were marked and Exs.X1 and X2 were marked. The Disability Certificate issued by the Medical Board was marked as Ex.C1. The Tribunal, after analyzing the oral and documentary evidence available on record, awarded a compensation of Rs.3,02,500/- and directed the second respondent / Insurance Company to pay the same to the appellant / claimant.

4. The learned counsel for the appellant/claimant submits that at the time of accident, the appellant was aged about 44 years and was a Fruit Vendor. When the doctor had clearly deposed about the injuries and disability suffered by the claimant, the amount of Rs.5,000/- per percentage of disability awarded by the Tribunal is wholly inadequate. He further submit that the amount awarded under various heads also requires to be reconsidered and a higher compensation ought to have been awarded to the appellant/claimant.



WEB COPY



C.M.A.No.2961 of 2024

5. The first respondent remained ex-parte before the Tribunal.

6. Per contra, the learned counsel appearing for the second respondent / Insurance Company submitted that, the Tribunal taking into consideration all the relevant documents has rightly fixed the compensation, which does not require any interference.

7. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

8. The factum of the accident is not disputed by the parties and so also the liability. Therefore, this Court is not entering into the said aspect. The only grievance of the claimant is with regard to the quantum of compensation awarded.



C.M.A.No.2961 of 2024

WEB COPY

9. It is seen from the records that as per Ex.C.1, the claimant has suffered 10% partial disability and the Tribunal has rightly taken the disability at 10%. However, Rs.5,000/- awarded per percentage is on the lower side and the same is enhanced to Rs.7,000/-. Thus, the compensation of Rs.50,000/- (10 X 5,000/-) awarded towards partial disability is enhanced to Rs.70,000/- (10 X 7,000/-). Insofar as the compensation awarded towards pain and suffering is concerned, this Court feels that a sum of Rs.40,000/- awarded under the head pain and suffering is meagre and the same is enhanced to Rs.50,000/-. Likewise, a sum of Rs.5,000/- awarded under the head attender charges is enhanced to Rs.10,000/-. The compensation awarded under the heads 'loss of income', 'medical expenses', 'transportation', 'loss of amenities', 'extra nourishment' and 'future medical expenses' are reasonable and it does not require the interference of this Court.

10. In the above circumstances, the compensation awarded by the



C.M.A.No.2961 of 2024

Tribunal under the below mentioned heads is modified as under:

WEB COPY

<i>S.No</i>	<i>Head of Compensation</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>
1	Partial disability	50,000/-	70,000/-
2	Pain and sufferings	40,000/-	50,000/-
3	Loss of income	27,000/-	27,000/-
4	Medical Expenses	1,05,500/-	1,05,500/-
5	Attender charges	5,000/-	10,000/-
6	Transportation	5,000/-	5,000/-
7	Loss of Amenities	10,000/-	10,000/-
8	Extra Nourishment	10,000/-	10,000/-
9	Future medical expenses	50,000/-	50,000/-
	Total	Rs.3,02,500/-	Rs.3,37,500/-

11. In the result, this civil miscellaneous appeal is allowed in part and the compensation awarded by the Tribunal at Rs.3,02,500/- is hereby enhanced to Rs.3,37,500/- together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit. The second



C.M.A.No.2961 of 2024

WEB COPY

respondent / Insurance Company is directed to deposit the entire award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.6117 of 2017 on the file of the Motor Accidents Claims Tribunal, (In the II-Special Court of Small Causes), Chennai. On such deposit, the appellant is permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn fixed by the Tribunal by making proper application before the Tribunal. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. No costs.

13.11.2024

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

ssb



WEB COPY



C.M.A.No.2961 of 2024

To

1. The Motor Accidents Claims Tribunal,
(In the II-Special Court of Small Causes), Chennai.
2. The Section Officer,
V.R. Section,
High Court, Chennai.



WEB COPY



C.M.A.No.2961 of 2024

M.DHANDAPANI, J.

ssb

C.M.A.No.2961 of 2024

13.11.2024