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C.M.A.No.1930 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2024

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.1930 of 2020

K.Leelavathi

.. Appellant

Vs.

1.S.Balasubramanian

2.Iffco-Tokio General Insurance Co. Ltd.,
3rd Floor, Tulasi Changers, 195,
T.V.Samy Road, R.S.Puram,
Coimbatore Town & District.

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 17.12.2019 made in M.A.C.T.O.P. No.66 of 2012 on the file of the Motor Accidents Claims Tribunal/Chief Judicial Magistrate Court, Namakkal.

For Appellant : Mr.T.S.Arthanareeswaran

For Respondents : Dismissed for default - R1
Ms.R.Rathna Thara for R2



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JUDGMENT

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This appeal has been filed by the appellant/claimant seeking enhancement of compensation.

2.The Tribunal under the impugned award has directed the second respondent/Insurance Company to pay the appellant/claimant a sum of Rs.36,29,000/- towards total compensation as detailed hereunder:

S.Nos.	Head	Amounts awarded by the Tribunal
1.	Compensation for permanent disability	Rs.14,04,000.00
2.	Pain and sufferings	Rs. 1,00,000.00
3.	Medical expenses	Rs.18,00,000.00
4.	Extra nourishment	Rs. 25,000.00
5.	Attender Charges	Rs. 3,00,000.00
	Total	Rs.36,29,000.00

3.The appellant/claimant sustained injuries as a result of an accident caused by a vehicle, owned by the first respondent and insured with the second respondent. The findings of the Tribunal with regard to the negligence of the driver of the vehicle, insured with the second respondent, has attained finality as no appeal has been filed by the



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respondents.

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4.The only question that arises for consideration in this appeal is whether the quantum of compensation awarded by the Tribunal is a just compensation or not and whether the appellant/claimant is entitled for enhancement of compensation.

5.The Medical Board has assessed the permanent disability of the appellant/claimant at 90%. The appellant/claimant had suffered three fractures and was in the hospital for more than three months as seen from the evidence available on record. The said fact is not disputed by the Insurance Company. The Tribunal has rightly adopted the multiplier method, considering the nature of injuries sustained by the appellant/claimant and has also adopted the correct multiplier under the disability compensation assessed by the Tribunal, based on the appellant's/claimant's disability at 90%, which does not call for any interference.

6.Considering the nature of injuries sustained by the appellant/claimant, the appellant/claimant will be incurring future Medical Expenses, but the Tribunal has failed to award any compensation



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towards Loss of Amenities and Future Medical Expenses, which the appellant/claimant is legally entitled to. Therefore, this Court fixes the compensation towards Loss of Amenities at Rs.1,00,000/- and Future Medical Expenses at Rs.1,00,000/-.

7.The Tribunal has awarded lesser compensation towards Extra Nourishment and Attender Charges. The Tribunal has awarded a sum of Rs.25,000/- towards Extra Nourishment and a sum of Rs.3,00,000/- towards Attender Charges, which in the considered view of this Court is low.

8.After giving due consideration to the nature of injuries sustained by the appellant/claimant, this Court enhances the compensation towards Extra Nourishment from Rs.25,000/- to Rs.50,000/- and enhances the compensation towards Attender Charges from Rs.3,00,000/- to Rs.4,00,000/-. The Tribunal has rightly assessed the monthly income of the appellant/claimant at Rs.10,000/- based on the documentary evidence available on record, viz. the Income Tax Return.



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9.For the foregoing reasons, the compensation awarded by the Tribunal is enhanced from Rs.36,29,000/- to Rs.39,54,000/- as detailed hereunder:

S.Nos.	Head	Amounts awarded by this Court
1.	Compensation for permanent disability	Rs.14,04,000.00
2.	Pain and sufferings	Rs. 1,00,000.00
3.	Medical expenses	Rs.18,00,000.00
4.	Extra nourishment	Rs. 50,000.00
5.	Attender Charges	Rs. 4,00,000.00
6.	Loss of amenities	Rs. 1,00,000.00
7.	Future Medical Expenses	Rs. 1,00,000.00
	Total	Rs.39,54,000.00

10.Accordingly, this Civil Miscellaneous Appeal is partly allowed by enhancing the award amount. The second respondent/insurance company is directed to deposit the enhanced award amount of Rs.39,54,000/-, after deducting the amount already deposited, if any, together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit and cost to the credit of M.A.C.T.O.P. No.66 of 2012 on the file of the Motor Accidents Claims Tribunal/Chief Judicial Magistrate Court, Namakkal, within a period four weeks from the date of receipt of a copy of this judgment.



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ABDUL QUDDHOSE, J.

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11.The appellant/claimant is permitted to withdraw the said amount, once it is deposited by the second respondent/Insurance Company, by filing an appropriate application. On such application being made, the Tribunal shall transfer the amount lying to the credit of M.A.C.T.O.P. No.66 of 2012 to the bank account of the appellant/claimant directly through RTGS, within a period of one week thereafter. No costs.

18.04.2024

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Internet: Yes/No

Speaking Order/Non-Speaking Order

To

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

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