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C.M.A.No.2098 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2024

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.No.2098 of 2022

C.Sumathi

...Appellant

Vs

1.S.Amirthalingam
2.The Oriental Insurance Company Limited,
3rd Party Claim HUB,
32/312, 13th Street,
Phase II, Sathuvachari,
Vellore.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award dated 09.07.2020 and made in MACTOP.No.27 of 2018 on the file of the Motor Accident Claims Tribunal, Sub Judge, Vaniyambadi.

For Appellant : Mr.F.Terry Chella Raja

For Respondents : Mr.J.Chandran for R2
R1 – Ex-parte



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JUDGMENT

This civil miscellaneous appeal has been filed challenging the judgement 09.07.2020 made in MACTOP.No.27 of 2018.

2. The learned counsel appearing for the appellant would submit that on 05.01.2018, while the appellant was walking on the extreme left side of the road, a vehicle bearing Registration No.TN-83-V-5800, which was drove by the 1st respondent in a rash and negligent manner, dashed against the appellant, due to which the appellant had sustained grievous injuries. Considering all the aspects, the Tribunal had awarded the following compensation:

<i>S.No</i>	<i>Particulars</i>	<i>Compensation (Rs.)</i>
1	Pain and Sufferings	25,000
2	Medical Expenses	13,413
3	Extra Nourishment	1,000
4	Ambulance Expenses	1,000
	Total	40,413

3. By referring the above compensation, the learned counsel for the appellant would submit that the Tribunal had awarded a sum of Rs.25,000/- towards the pain and sufferings, which is on lower side and hence, he requests



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this Court to fix atleast a sum of Rs.75,000/-. Further, he would also request this Court to enhance the award amount under the head Extra Nourishment.

4. In reply, the learned counsel for the respondents would submit that it will be just and reasonable to award an additional sum of Rs.10,000/- towards pain and sufferings and requests this Court to pass appropriate order.

5. Heard the learned counsel for the appellants and the respondents and also perused the materials available on record.

6. In the present case, considering the facts and circumstances, this Court is inclined to award additional sum of Rs.10,000/- towards the pain and sufferings and hence, the compensation awarded by the Tribunal under the head pain and sufferings is enhanced from a sum of Rs.25,000/- to Rs.35,000/-. Further, this Court is inclined to award a sum of Rs.5,000/- towards extra nourishment instead of Rs.1,000/-. Accordingly, the compensation awarded by the Tribunal is modified as follows:



<i>S.No</i>	<i>Particulars</i>	<i>Compensation awarded by Tribunal (Rs.)</i>	<i>Compensation awarded by this Court (Rs.)</i>
1	Pain and Sufferings	25,000	35,000
2	Medical Expenses	13,413	13,413
3	Extra Nourishment	1,000	5,000
4	Ambulance Expenses	1,000	1,000
	Total	40,413	54,413

7. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.54,413/-. Accordingly, the award amount stands increased from a sum of Rs.40,413/- to Rs.54,413/-. In all other aspects, the award of the Tribunal stands confirmed.

8. In the result, this Civil Miscellaneous Appeal is partly allowed and the 2nd respondent/insurance company is directed to deposit a sum of Rs.54,413/- 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 MCOP.No.27 of 2018 on the file of the Sub Judge, Motor Accident Claims Tribunal, Vaniyambadi. Upon such deposit, the Tribunal is directed to transfer the entire amount to the bank account of the appellant, by way of RTGS, within a period of three weeks from the deposit or from the date of



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receipt of the Bank details obtained for the claimant or application for withdrawal from the claimant, whichever is earlier. No costs.

18.01.2024

Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
nsa

To:

The Motor Accident Claims Tribunal,
Sub Court, Vaniyambadi.



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KRISHNAN RAMASAMY,J.

nsa

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