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Civil Miscellaneous Appeal No.2737 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.2737 of 2023

M.Subbulakshmi
W/o.R.S.Murugan

... Appellant

Vs.

1.A.Thandapani
S/o.Arunachalam
[1st Respondent remained *ex-parte*]

2.United India Insurance Co. Ltd.,
Motor Third Party Hubb, 4th Floor,
Silinghi Buildings, 134, Greams Road,
Thousand Lights, Chennai - 600 006.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 05.01.2022 made in MACT.O.P.No.6204 of 2016 on the file of Special Court I, Motor Accident Claims Tribunal, Chennai.

For Appellant : Mr.N.M.Muthurajan

For Respondents : Mr.P.Sankaranarayanan [R2]



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JUDGMENT

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The appellant/claimant, not being satisfied with the quantum of compensation awarded by the Tribunal, has filed this appeal against the award passed in M.C.O.P.No.6204 of 2016 on the file of Special Court I, Motor Accident Claims Tribunal, Chennai, dated 05.01.2022.

2. The case of the claimant is that she was travelling in an auto rickshaw from Pammal to Pallavaram on 27.07.2016 and the auto rickshaw was driven in a rash and negligent manner and at about 9.15 a.m., the driver of the auto rickshaw lost his control, hit the center median and as a result, the auto rickshaw capsized. The passengers, who were travelling in the auto rickshaw, sustained grievous injuries including the claimant. The claimant suffered 'fracture shaft at humerus left with non-union'. The claimant was also examined by the Medical Board and the disability was fixed at 18%. It is under these circumstances, the claim petition came to be filed seeking for payment of compensation.



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3. The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place due to the rash and negligent driving of the auto rickshaw by its driver. Having rendered such a finding, the Tribunal proceeded to determine the compensation and awarded total compensation of Rs.3,41,800/- in the following manner:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Medical expenses	1,23,217/-
2.	Disability	90,000/-
3.	Loss of earnings	48,596/-
4.	Future Medical Expenses	40,000/-
5.	Pain and Sufferings	25,000/-
6.	Extra nourishment	10,000/-
7.	Transportation	4,000/-
8.	Attender charges	900/-
	Total	3,41,713/-
	Rounded off to	3,41,800/-

The above compensation was directed to be paid with interest at 7.5% p.a.



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4. The claimant, not being satisfied with the quantum of compensation awarded by the Tribunal, has approached this Court seeking for enhancement of compensation.

5. Heard learned counsel for appellant/claimant and learned counsel for second respondent insurance company.

6. This Court carefully considered the submissions made on either side and the materials available on record.

7. This Court also carefully went through the award passed by the Tribunal.

8. The claimant, in this case, is a woman aged about 36 years and she is a MBA candidate. She was working as a sales co-ordinator in a private company and the Tribunal has fixed monthly salary at Rs.24,298/- based on Ex.P19 - pay slip issued by M/s.Sumax Engineering (P) Ltd. It is also seen from records that the appellant/claimant underwent treatment as an inpatient for nearly 36 days and also has undergone a surgery. Due



to the injury suffered by the claimant in the accident, she was not able to continue her job and relieving letter was issued to her under Ex.P20.

9. In view of the above, this Court is inclined to interfere with the quantum of compensation awarded under the head 'loss of earnings'. The Tribunal has awarded compensation for loss of earnings only for two months. However, this Court is inclined to award compensation for loss of earnings for six months. Accordingly, the compensation payable under the head 'loss of earnings' works out to Rs.1,45,788/- [24,298 *6].

10. This Court is also inclined to enhance the compensation awarded under the head 'attender charges' at Rs.900/- to Rs.10,000/-. This is in view of the fact that the appellant/claimant was taking treatment for a very long time in this case and hence, she should have been attended by another person on a daily basis.

11. The compensation awarded under the other heads are reasonable and does require the interference of this Court.



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12. In the light of the above discussion, this Court modifies the compensation in the following manner:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount awarded by the Tribunal (in Rs.)</i>	<i>Amount awarded by this Court (in Rs.)</i>
1.	Medical expenses	1,23,217/-	1,23,217/-
2.	Disability	90,000/-	90,000/-
3.	Loss of earnings	48,596/-	1,45,788/-
4.	Future Medical Expenses	40,000/-	40,000/-
5.	Pain and Sufferings	25,000/-	25,000/-
6.	Extra nourishment	10,000/-	10,000/-
7.	Transportation	4,000/-	4,000/-
8.	Attender charges	900/-	10,000/-
	Total	3,41,713/-	4,48,005/-
	Rounded off to	3,41,800/-	4,48,000/-

13. The compensation awarded by the Tribunal at Rs.3,41,800/- is enhanced to Rs.4,48,000/-. The second respondent insurance company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. Insofar as the enhanced compensation of



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Rs.1,06,292/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay of 162 days as was ordered by this Court in C.M.P.No.17111 of 2023, dated 17.10.2023. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

In the result, the Civil Miscellaneous Appeal is allowed in the above terms. No costs.

18.04.2024

Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No

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To

The Motor Accident Claims Tribunal,
II Court of Small Causes,
Chennai.



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N.ANAND VENKATESH, J.

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