



C.M.A.No.3041 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3041 of 2024

Chellammal

... Appellant / Petitioner

Vs.

1.Periyannan

2.Mohanraj

3.The Branch Manager,
The United India Insurance Company Limited,
P.P.S Complex, 1st Floor, Mettur Main Road,
Omalur, Salem District.

4.The Branch Manager,
The United India Insurance Company Limited,
D.No.26/30B, Dr.Sankaran Road,
Thillaipuram, Namakkal District.

5.Selvam

... Respondents / Respondents



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PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 10.01.2024 made in M.C.O.P.No.61 of 2020 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Paramathy.

For Appellant : Mr.C.Paraneedharan

For Respondents : R1, R2 and R5-Ex-parte
Mrs.I.Malar for R3 and R4

J U D G M E N T

Aggrieved by the compensation awarded by the Tribunal in M.C.O.P.No.61 of 2020 filed by the claimant, the appellant/claimant 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 12.03.2020 at about 08.15 a.m., when the claimant was traveling as a pillion rider in a two-wheeler belonging to the fifth respondent on Tiruchengode to Vellore Road, Hyundai Motor Car belonging to the second respondent and insured with the third



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and fourth respondents was driven by the first respondent in a rash and negligent manner on Vellore to Tiruchengode Road and dashed against the two wheeler, due to which, she sustained grievous injuries. Under these circumstances, the claim petition came to be filed by the claimant seeking compensation before the Tribunal against the respondents.

3. Before the Tribunal, on the side of the claimant, P.W.1 and P.W.2 were examined and Exs.P1 to P13 were marked. On the side of the third and fourth respondents, R.W.1 to R.W.3 were examined and Ex.R1 to Ex.R3 were marked. The Tribunal, after analyzing the oral and documentary evidence available on record, awarded a compensation of Rs.4,28,500/- and directed the third and fourth respondents / Insurance Company to pay the same to the appellant / claimant.

4. The learned counsel appearing for the appellant submitted that the accident had taken place in the year 2020, and the Medical Board has assessed the disability of the appellant as 23%, and the petitioner is facing



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some difficulties in kneeling, crouching and lifting, due to the disability, however, the Tribunal has awarded very meagre compensation and has taken only a sum of Rs.5,000/- per percentage. Hence, he prays for enhancement of compensation.

5. The first, second and fifth respondents remained ex-parte before the Tribunal.

6. Per contra, the learned counsel appearing for the third and fourth respondents / Insurance Company submitted that, the Tribunal taking into consideration all the relevant documents, has rightly fixed the compensation, which does not require any interference. However, a sum of Rs.35,000/- awarded towards loss of amenities is not reasonable and hence, the same may be deleted.

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



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materials available on record.

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8. The factum of the accident is not disputed by the parties. 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.

9. In the instant case, the accident had taken place in the year 2020 and the Medical Board assessed the disability of the appellant as 23%. The Tribunal has chosen to adopt the percentage method and has calculated per percentage of disability at the rate of Rs.5,000/-. Hence, considering the increase in the cost of living, this Court is inclined to enhance the per percentage of disability at the rate of Rs.9,000/-. Accordingly, the compensation awarded under the head 'disability' is enhanced to Rs.2,07,000/- $[9000 * 23]$. Since the appellant is still facing in kneeling, crouching and lifting, a sum of Rs.60,000/- awarded towards pain and suffering is on the lower side and the same is enhanced to Rs.75,000/-. As per Ex.P6, the appellant took treatment as in-patient from 12.03.2020 to



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23.03.2020 and sustained grievous injuries and therefore, she would not have attended her work for a period of three months. Hence, this Court is inclined to award a sum of Rs.30,000/- (Rs.10,000 * 3) for a period of three months. The compensation awarded under the heads 'attender charges' is on the lower side and is enhanced to Rs.20,000/-. Insofar as the compensation awarded under the heads 'extra nourishment' and 'damages to clothes' is concerned, it is excessive and is reduced to Rs.50,000/- and Rs.1,000/-. Further, this Court finds that there is no ground to award a sum of Rs.35,000/- towards loss of amenities and the same is hereby set aside. The compensation awarded under the head 'Medical Expenses' and 'Transportation Charges' is just and reasonable and does not require any interference.

10. In the above circumstances, the compensation awarded by the Tribunal under the below mentioned heads is modified as under:



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<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	Disability (Rs.9,000/- * 23)	Rs.1,15,000/-	Rs.2,07,000/-
2	Pain and Sufferings	Rs.60,000/-	Rs.75,000/-
3	Extra Nourishment	Rs.60,000/-	Rs.50,000/-
4.	Loss of income during the treatment period (Rs.10,000/- * 3)	Rs.10,000/-	Rs.30,000/-
5	Loss of amenities	Rs.35,000/-	-
6	Attender Charges	Rs.15,000/-	Rs.20,000/-
7	Damages to Clothes	Rs.5,000/-	Rs.1,000/-
8	Medical Expenses	Rs.1,13,500/-	Rs.1,13,500/-
9	Transportation Charges	Rs.15,000/-	Rs.15,000/-
	Total	Rs.4,28,500/-	Rs.5,11,500/-

11. In the result, this civil miscellaneous appeal is allowed in part and the compensation awarded by the Tribunal at Rs.4,28,500/- is hereby enhanced to Rs.5,11,500/- together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit. The second and third respondents / Insurance Company are directed to deposit the entire



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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.61 of 2020 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Paramathy. 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, by making proper application before the Tribunal. No costs.

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NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No
ssb



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To

1. The Motor Accidents Claims Tribunal,
Subordinate Court, Paramathy.
2. The Section Officer,
V.R. Section,
High Court, Chennai.



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M.DHANDAPANI, J.

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