



C.M.A.No.3522 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3522 of 2021

Flora Siromani

... Appellant

Vs.

1.V.Rangan

2.The United India Insurance Company Limited,
Motor III Party Claims Office,
Silingi Building No.134,
Greams Road,
Chennai-600 006.

... Respondents / Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 16.03.2020 made in M.C.O.P.No.4504 of 2015 on the file of the Motor Accidents Claims Tribunal (In the IV Court of Small Causes, Chennai).



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For Appellant : Mr.Amar Dineshbhai Pandiya

For Respondents : No appearance for R1
Mr.S.Arun Kumar for R2

J U D G M E N T

The appellant / claimant, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai, in M.C.O.P.No.4504 of 2015, dated 16.03.2020, has filed this appeal.

2. On 25.03.2015, at about 05.45 p.m., when the claimant was travelling in the motorcycle in east-west direction at the middle portion of Vaidyanathan overbridge at Tondiarpet, the driver of the motorcycle drove the vehicle in a rash and negligent manner and applied brake suddenly in order to avoid hitting the dog, which was crossing the road, as a result of which, the motorcycle overturned, which led to the petitioner having been thrown off and she sustained grievous injuries. Under these circumstances, the claim petition came to be filed by the appellant before the Tribunal



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seeking for compensation against the respondents, who are the owner and insurer of the vehicle.

3. Before the Tribunal, on the side of the claimant, P.W.1 was examined and Exs.P1 to P8 were marked. On the side of the respondents, no witness was examined and no document was marked. The Disability Certificate issued by Rajiv Gandhi Government General Hospital, Chennai, was marked as Ex.C1. 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 only due to the rash and negligent driving on the part of the driver of the motorcycle. Having reached such a finding, the Tribunal proceeded to fix the total compensation at Rs.1,18,560/- under various heads. The above compensation was directed to be paid by the first and second respondents along 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 filed this appeal seeking compensation.

5. The learned counsel appearing for the appellant submitted that the Tribunal erred in not awarding any amount under the head of disability and the Tribunal has fixed the notional income of the appellant at Rs.8,000/- only, however, the Tribunal ought to have fixed the monthly income of the appellant at Rs.15,000/-, since she was doing tailoring works and the other heads awarded by the Tribunal are also on the lower side. Hence, the learned counsel for the appellant prays for enhancement of compensation.

6. The first respondent remained *ex-parte* before the Tribunal.

7. Per contra, learned counsel appearing for the second respondent / Insurance company submitted that there is no proof to show that the



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appellant was earning Rs.15,000/- per month and the appellant sustained simple injury and a sum of Rs.10,000/- awarded towards loss of amenities for a minor injury is not reasonable and hence, the same may be deleted and the other heads awarded by the Tribunal are also on the higher side.

8. 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.

9. Though the contention of the appellant is that the appellant was doing tailoring works and earning a sum of Rs.15,000/- per month, however, the appellant failed to substantiate the said contention. The Tribunal, in the absence of any evidence with regard to income of the appellant, has fixed the notional income of Rs.8,000/- per month. The accident is of the year 2015 and the notional income fixed by the Tribunal is very meagre. Hence, considering the age and the nature of the work done by the appellant, a sum of Rs.10,000/- is fixed towards loss of income. Considering the nature of the



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injuries sustained, it had been presumed by the Tribunal that she would have lost income for one month, therefore, the Tribunal has awarded the loss of income for a period of one month which is sustainable. Insofar as compensation awarded under the heads 'pain and sufferings', 'transportation expenses' and 'attender charges' are concerned, the same is on the lower side and the same is enhanced to Rs.40,000/-, Rs.10,000/- and Rs.10,000/- respectively. The Tribunal has granted a sum of Rs.10,000/- towards additional nourishment and the same is enhanced to Rs.20,000/-. This Court finds that there is no ground to award a sum of Rs.10,000/- towards loss of amenities and therefore, the same is hereby set aside. The amount awarded under the heads medical expenses and damages to clothes by the Tribunal is hereby confirmed.

11. 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	Medical Expenses	68,352.73/-	68,352.73/-
2	Loss of Income	8,000/-	10,000/-
3	Pain and Suffering	15,000/-	40,000/-
4	Transportation Expenses	5,000/-	10,000/-
5	Additional Nourishment	10,000/-	20,000/-
6.	Damages to clothes	1,000/-	1,000/-
7.	Attender charges	1,200/-	10,000/-
8.	Loss of Amenities	10,000/-	-
	Total	Rs.1,18,552.73/-	Rs.1,44,352.73/-
	Rounded off to	Rs.1,18,560/-	Rs.1,59,360/-

12. In the result, this Civil Miscellaneous Appeal is allowed in part and the compensation awarded by the Tribunal at Rs.1,18,560/- is hereby enhanced to Rs.1,59,360/- together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit. The first and second respondents are directed to deposit the entire award amount now



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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.4504 of 2015 on the file of the Motor Accidents Claims Tribunal, Small Causes Court No.IV, 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 as per the apportionment 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.

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NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

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To

1.The Motor Accidents Claims Tribunal,
(In the IV Court of Small Causes, Chennai).

2. The Section Officer,
V.R. Section,
High Court, Chennai.



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M.DHANDAPANI, J.

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