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C.M.A.No.626 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

C.M.A.No.626 of 2023

S.Flora

.. Appellant

Vs.

1.S.Mayavelayudham

2.M/s.United India Insurance Co.Ltd.,
Pallivasal Street,
Perambalur.

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to allow this appeal by enhancing the award passed by the Motor Accident Claims Tribunal Cum Chief Judicial Magistrate, Perambalur, in M.C.O.P.No.546 of 2015 dated 15.11.2018.

For Appellant : Mr.T.Gobinath
For R2 : Mr.D.Bhaskaran

J U D G M E N T

The claimant not being satisfied with the quantum of compensation fixed by the Tribunal has filed the present appeal against the award passed by the Motor Accident Claims Tribunal Cum Chief

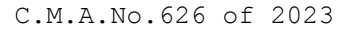


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Judicial Magistrate, Perambalur, in M.C.O.P.No.546 of 2015 dated 15.11.2018.

2.The case of the claimant is that she was traveling as a pillion rider in a two wheeler on 14.02.2015 at Trichy – Karur main road and at about 17.30 hours, the offending vehicle belonging to the 1st respondent and which was coming in the opposite direction was driven in a rash and negligent manner and as a result, it dashed on the two wheeler and the claimant was thrown out of the vehicle. She sustained multiple compound fractures in both legs and crush injury. The claimant underwent treatment as inpatient for nearly 56 days and there was amputation of right leg below knee joint. The Medical Board assessed 85% disability. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of the 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 offending vehicle.



1.For permanent disability and loss of earning power	-	Rs.9,75,000/-
2.For transportation expenses	-	Rs.15,000/-
3.For pain and sufferings and mental agony	-	Rs.50,000/-
4.For extra nourishment	-	Rs.10,000/-
5.For attender charges	-	Rs.1,00,000/-
6.For medical expenses	-	Rs.7,66,000/-

Total	Rs.19,16,000/-
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6.The claimant not being satisfied with the quantum of compensation fixed by the Tribunal has filed the present appeal seeking for enhancement of compensation.

7. Heard the learned counsel for the appellant and the learned counsel for the 2nd respondent.



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

9.This Court has also carefully gone through the award passed by the Tribunal.

10.The Tribunal has adopted the multiplier method mainly on the ground that there was amputation of the right leg below knee joint. The Medical Board had assessed 85% disability and the Tribunal considering the functional disability of the claimant, fixed the same at 50% by taking into account Schedule I Part II. While adopting the multiplier method, the Tribunal had fixed the monthly income of the claimant at Rs.10,000/- by relying upon Ex.P5. The accident had taken place in the year 2015 and the claimant was working as an Arts and Crafts Teacher in a private institution. The claimant was aged about 48 years at the time of accident. Hence, this Court is inclined to fix the notional monthly income of the claimant at Rs.12,500/- per month. Thus, the compensation under the head of loss of earning capacity is calculated as follows:



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Monthly income fixed : Rs.12,500/-
Future prospects to be added : 25%
Notional Income arrived at : Rs.12,500/- + 25% (Rs.3125/-)
Rs.15,625/-
Multiplier to be adopted : 13
Loss of earning capacity : Rs.12,18,750/-
Rs.15,625/- X 12 X 13 X 50/100

11.Considering the injuries, its consequences and the treatment underwent by the claimant, this Court is inclined to increase the compensation under the head of pain and sufferings and extra nourishment at Rs.75,000/- and Rs.50,000/- respectively. This Court is also inclined to grant a sum of Rs.50,000/- under the head of loss of amenities.

12.The compensation that has been fixed under other heads are reasonable and it does not require the interference of this Court.

13.In the light of the above discussion, the compensation fixed by the Tribunal is modified as follows:



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1.For permanent disability and loss of earning power	-	Rs.12,18,750/-
2.For transportation expenses	-	Rs.15,000/-
3.For pain and sufferings and mental agony	-	Rs.75,000/-
4.For extra nourishment	-	Rs.50,000/-
5.For attender charges	-	Rs.1,00,000/-
6.For medical expenses	-	Rs.7,65,066/-
7.For loss of amenities	-	Rs.50,000/-

Total		Rs.22,73,816/-

14.The compensation awarded by the Tribunal at Rs.19,16,000/- is hereby enhanced to Rs.22,73,816/-. The 2nd respondent-Insurance Company is directed to deposit the enhanced compensation together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four (4) weeks from the date of receipt of a copy of this judgment, if not already deposited. Insofar as the enhanced compensation of Rs.3,57,816/- is concerned, the appellant / claimant will not be entitled for interest for the period of delay of 380 days in filing this appeal. Insofar as the enhanced compensation is concerned, the



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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.

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

30.07.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

1.The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Perambalur.

2.The Section Officer,
VR Section,
Madras High Court,
Chennai.



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N.ANAND VENKATESH, J.

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