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C.M.A.No.2485 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2024

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2485 of 2022

K.Thilagavathi

... Appellant

Vs.

1.M.Ramesh Kumar

2. United India Insurance Company Limited,  
Rep. by its Branch Manager,  
No.5-A, Pallaivasal street,  
Perambalur.

... Respondents

**PRAYER:** Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988 challenging the Judgment and Decree dated 19.07.2022 made in M.C.O.P. No.280 of 2018 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Perambalur.

For Appellant : Ms.Sithi Fathima Samt  
for Mr.C.Vidhusan

For Respondents : Ms.I. Malar  
for R2

No appearance for R1

**JUDGMENT**

**WEB COPY** This appeal has been filed by the claimant seeking enhancement of compensation. The appellant sustained injuries as a result of an accident cause by a vehicle insured with the second respondent Insurance Company. The Tribunal under the impugned award directed the second respondent Insurance Company to pay the appellant / claimant a total compensation of Rs.3,06,720/- as detailed hereunder:

| <i><b>Heads</b></i>                            | <i><b>Amount awarded by the Tribunal in Rs.</b></i> |
|------------------------------------------------|-----------------------------------------------------|
| Partial Permanent Disability (Rs.5,000/- x 10) | 50,000                                              |
| Transport to Hospital                          | 10,000                                              |
| Extra Nourishment                              | 5,000                                               |
| Attender's Charge                              | 8,000                                               |
| Pain and sufferings                            | 30,000                                              |
| Temporary Loss of Income (Rs.7,000/- x 3)      | 21,000                                              |
| Medical Bills                                  | 1,81,718                                            |
| Damage to cloth                                | 1,000                                               |
| <b>Total</b>                                   | <b>3,06,718</b>                                     |
| <b>Rounded off to</b>                          | <b>3,06,720</b>                                     |

2. The appellant / claimant was a teacher in a private school at the time of the accident. But, no documentary evidence has been produced to substantiate the same. The Tribunal under the impugned award has fixed the



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notional monthly income of the appellant / claimant at Rs.7,000/-. The accident happened in the year 2017. The assessment of the notional monthly income of the appellant / claimant at Rs.7,000/- is a correct assessment as only based on the avocation and the year of the accident, the Tribunal has fixed the same on notional basis.

3. The Medical Board has assessed the disability of the appellant / claimant at 10%. The Tribunal has awarded a compensation of Rs.50,000/- towards disability compensation calculated at Rs.5,000/- per percentage of disability for the 10% disability suffered by the appellant / claimant. Since the accident happened in the year 2017, after giving due consideration to the nature of injuries sustained by the appellant / claimant, which is not disputed by the respondents, this Court is of the considered view that erroneously the Tribunal has awarded disability compensation at Rs.5,000/- per percentage of disability. If the year of the accident was given due consideration, it ought to have been fixed at Rs.6,000/- per percentage of disability. If Rs.6,000/- per percentage of disability is taken into consideration, the disability compensation payable to the appellant / claimant has to be enhanced to Rs.60,000/- calculated at Rs.6,000/- per



percentage of disability for the 10% disability suffered by the appellant / claimant.

4. In so far as the compensation awarded by the Tribunal towards transportation at Rs.10,000/- and towards medical bills at Rs.1,81,718/- and towards damages to clothing at Rs.1,000/- are concerned, the same is a just compensation and there is no scope for enhancement by this Court.

5. However, the Tribunal has awarded lesser compensation to the appellant / claimant towards extra nourishment, attender charges, pain and suffering and temporary loss of income. The Tribunal ought to have considered the nature of injuries sustained by the appellant / claimant and the period of her hospitalization in the proper perspective and ought to have awarded compensation under those heads, after giving due consideration to the fact that the appellant / claimant was hospitalized for a period of 41 days. After giving due consideration to the nature of injuries, this Court is of the considered view that the compensation payable to the appellant / claimant towards extra nourishment has to be enhanced from Rs.5,000/- to Rs.10,000/-, towards attender charges from Rs.8,000/- to Rs.15,000/-,



towards pain and sufferings from Rs.30,000/- to Rs.40,000/-.

6. Similarly, the Tribunal has failed to take note of the long period of hospitalization and the nature of injuries sustained by the appellant / claimant while awarding the compensation under the head "temporary loss of income". Atleast for a minimum period of 4 months, the appellant / claimant would not have been able to do her regular employment due to the injuries sustained by her as a result of an accident caused by a vehicle insured with the second respondent Insurance Company. Therefore, the compensation payable to the appellant / claimant towards temporary loss of income is enhanced from Rs.21,000/- fixed by the Tribunal calculated at Rs.7,000/- for a period of 3 months to Rs.28,000/- calculated at Rs.7,000/- per month for a period of 4 months.

7. For the foregoing reasons, the compensation payable by the second respondent Insurance Company is re-worked in the following manner:

| <i><b>Heads</b></i>          | <i><b>Amount awarded by the Tribunal in Rs.</b></i> | <i><b>Amount awarded by this Court in Rs.</b></i> |
|------------------------------|-----------------------------------------------------|---------------------------------------------------|
| Partial Permanent Disability | 50,000                                              | 60,000                                            |
| Transport to Hospital        | 10,000                                              | 10,000                                            |



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| <i><b>Heads</b></i>      | <i><b>Amount awarded by the Tribunal in Rs.</b></i> | <i><b>Amount awarded by this Court in Rs.</b></i> |
|--------------------------|-----------------------------------------------------|---------------------------------------------------|
| Extra Nourishment        | 5,000                                               | 10,000                                            |
| Attender's Charge        | 8,000                                               | 15,000                                            |
| Pain and sufferings      | 30,000                                              | 40,000                                            |
| Temporary Loss of Income | 21,000                                              | 28,000                                            |
| Medical Bills            | 1,81,718                                            | 1,81,718                                          |
| Damage to cloth          | 1,000                                               | 1,000                                             |
| <b>Total</b>             | <b>3,06,718</b>                                     | <b>3,45,718</b>                                   |
| <b>Rounded off to</b>    | <b>3,06,720</b>                                     | <b>3,45,720</b>                                   |

8. In the result, this Civil Miscellaneous Appeal is **partly allowed** by enhancing the award amount from **Rs.3,06,720/-** to **Rs.3,45,720/-**. The second respondent/insurance company is directed to deposit the enhanced award amount of **Rs.3,45,720/-**, after deducting the amount already deposited, if any, together with interest at the rate of **7.5%** per annum from the date of the claim petition till the date of deposit and cost to the credit of **M.C.O.P. No.280 of 2018** on the file of the **Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Perambalur**, within a period of **four weeks** from the date of receipt of a copy of this judgment.

9. The appellant/claimant is permitted to withdraw the said amount,



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once it is deposited by the second respondent/Insurance Company, by filing

an appropriate application before the Tribunal. On such application being

made, the Tribunal shall transfer the amount lying to the credit of **M.C.O.P.**

**No.280 of 2018** to the bank account of the appellant directly through NEFT

/ RTGS, within a period of **one week** thereafter. No costs.

**09.07.2024**

Index : Yes/No

Speaking Order : Yes / No

Neutral Citation Case: Yes / No

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To

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

2. The Section officer, Record Section, High Court of Madras.



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**ABDUL QUDDHOSE. J.,**

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