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CMA.No.2767 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.2767 of 2024

Lakshmi

.... Appellant

VS.

1. A.Lakshmankumar

2. The Manager

United India Insurance Company Limited

T.P. Cell No.134, 4th Floor

Greens Road, Chennai 600 006.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 08.04.2024 in M.C.O.P.472/2020 on the file of the Motor Accident Claims Tribunal, VI Court of Small Causes, Chennai.

For Appellant : Mr. D. Poovannan

R1 : No appearance

For R2 : Mr. K. Swaminathan



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JUDGMENT

The appellant is the claimant in M.C.O.P.472/2020 on the file of the Motor Accident Claims Tribunal, VI Court of Small Causes, Chennai, and she filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 and Rule 3 of the M.A.C.T. Rules, seeking compensation of Rs.18,00,000/- for the injuries sustained by her in a road accident that occurred on 09.12.2019.

2. The case of the claimant is that on 09.12.2019, she was walking along Tambaram-Chengalpattu service road and when she was nearing Guduvancherry Government Hospital, a speeding two wheeler bearing Registration Number TN 19 M 5313 hit her as a result of which she fell down and sustained injuries all over her body. She was immediately rushed to a nearby hospital.

2.1. According to the claimant, the rash and negligent driving of the rider of the two wheeler bearing Registration Number TN 19 M



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5313 was the cause of the accident and that since the said motorcycle was insured with the second respondent, the United India Insurance Company Limited, Chennai, the owner and the insurer are jointly and severally liable to pay compensation to her.

3. In the Tribunal the owner of the motorcycle remained absent and was set *ex parte*. The second respondent insurance company resisted the claim petition on all the grounds available to the insurer under Section 170 of the Motor Vehicles Act.

4. The Tribunal, after analysing the evidence on record, fastened negligence on the part of the rider of the two wheeler bearing Registration Number TN 19 M 5313 and directed the second respondent Insurance Company to pay compensation of Rs.1,84,224/- to the appellant/claimant together with interest at the rate of 7.5% per annum from the date of the petition till the date of realisation. The Tribunal further held that the liability of the owner of the motorcycle and the insurance company is joint and several.



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5. Aggrieved over the quantum of compensation awarded by the Tribunal, the claimant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

6. Heard Mr. D. Poovannan, learned counsel appearing for the appellant and Mr.K.Swaminathan, learned counsel appearing for the second respondent/Insurance Company.

7. Mr. D. Poovannan, learned counsel for the appellant contended that the award passed by the Tribunal is not commensurate with the injuries sustained by the claimant. He, therefore, prayed for enhancement of the same.

8. Per contra, Mr.K.Swaminathan, learned counsel appearing for the second respondent/Insurance Company contended that the Tribunal, after analysing the evidence on record, had awarded just compensation and therefore the same need not be disturbed in the present appeal.



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9. A perusal of the discharge summary shows that the claimant sustained cervical and spinal fractures. The Medical Board assessed the disability as 20%. Since there is no functional disability, the Tribunal awarded a sum of Rs.1,00,000/- towards partial permanent disability by fixing a sum of Rs.5,000/- per percentage of disability. The claimant was aged 74 years on the date of accident. Considering the age of the claimant and the year of accident, a sum of Rs.8,000/- per percentage of disability is awarded. Hence, a sum of Rs.1,60,000/- (8,000x20) is awarded towards partial permanent disability.

9.1. According to the claimant she was doing housekeeping earning a sum of Rs.10,000/- per month. On account of the accident, the claimant would have been out of action atleast for six months and therefore, a sum of Rs.60,000/- (10,000x6) is awarded towards loss of income.



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9.2. The following tabular column would show the amount awarded by the Tribunal and the amount awarded by this Court under various heads.

<i>S.No.</i>	<i>Description</i>	<i>Amount awarded by Tribunal (Rs.)</i>	<i>Amount awarded by this Court (Rs.)</i>
1.	Partial permanent disability	1,00,000/- (20x5000)	1,60,000/- (20x8000)
2.	Transportation	10,000/-	10,000/-
3.	Extra nourishment	5,000/-	25,000/-
4.	Attender's charges	10,000/-	10,000/-
5.	Medical expenses	9,224/-	9,224/-
6.	Loss of income	30,000/-	60,000/-
7.	Future Medical expenses	20,000/-	50,000/-
8.	Pain and sufferings	-	50,000/-
9.	Loss of amenities	-	10,000/-
		1,84,224/-	3,84,224/-

9.3. Thus, the compensation awarded by the Tribunal is enhanced to Rs.3,84,224/-. As regards interest, the claimant is entitled to get 7.5% per annum for Rs.3,34,224/- and no interest is granted for future medical expenses of Rs.50,000/-.



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10. In the result,

- i. The Civil Miscellaneous Appeal is partly allowed. No costs.
- ii. The compensation awarded by the Tribunal is enhanced to Rs.3,84,224/-.
- iii. The appellant / claimant is directed to pay court fee for the enhanced compensation amount, if any, and the Registry is directed to draft the decree only after receipt of Court fee.
- iv. The second Respondent, the United India Insurance Company Limited, Chennai, is directed to deposit the enhanced compensation amount of Rs.3,84,224/- (less the amount already deposited) together with interest at the rate of 7.5% per annum on 3,34,224/- from the date of claim petition till the date of deposit to the credit of M.C.O.P.472/2020 on the file of the Motor Accident Claims Tribunal, VI Court of Small Causes, Chennai, within a period of four weeks from the date of receipt of a copy of this



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order/uploading of this order.

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y. On such deposit being made, the appellant/claimant is at liberty to withdraw the same, after following due process of law.

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Index : Yes/No

Speaking/Non-speaking order

bga

To

1. Motor Accident Claims Tribunal, VI Court of Small Causes, Chennai
2. The Manager
United India Insurance Company Limited
T.P. Cell No.134, 4th Floor
Greens Road, Chennai 600 006.
3. The Section Officer, VR Section, Madras High Court, Chennai.



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R.HEMALATHA, J.

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