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C.M.A.No.2657 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.No.2657 of 2023

Fathima

.. Appellant

Vs.

1. Yagavendhiran

2. The United India Insurance Co., Ltd.,
No.5-B/11, State Ban of India Upstairs,
Salem Main Road, Rasipuram,
Namakkal District- 637 403.

3. Baby

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the Judgment and Decree dated 21.02.2023 passed in M.C.O.P.No.314 of 2021 by the Motor Accident Claims Tribunal, Special Subordinate Judge, No.I, Salem.

For Appellant : Mr.T.S.Arthanareeswaran

For Respondents : Notice Dispensed with (R1)
Ms.I.Malar (R2)
Notice Dispensed with (R3)



JUDGMENT

WEB COPY This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 21.02.2023 made in M.C.O.P.No.314 of 2021 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge No.1, Salem.

2.The appellant is the claimant in M.C.O.P.No.314 of 2021 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge No.1, Salem. She filed the above said claim petition, claiming a sum of Rs.20,00,000/- as compensation on account of the injuries sustained by her in an accident that took place on 12.08.2020.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the rider of the two wheeler (TVS Star City) bearing Registration No.TN-28 BY 6282, belonging to the first respondent herein and directed the 2nd respondent-Insurance Company to pay a sum of Rs.3,89,447/- as compensation to the appellant.



4. Not being satisfied with the amounts awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

5. The learned counsel appearing for the appellant contended that due to the aforesaid accident, the appellant sustained grievous injuries and the Claims Tribunal without considering the same has awarded meager compensation. He further submitted that though the claimant was working in M/s.JKV Garments and was earning a sum of Rs.12,000/- per month, the Claims Tribunal has fixed the notional income of the injured only at Rs.5,000/- and awarded a sum of Rs.15,000/- towards Loss of Earnings during treatment period which is very low. He further submitted that the Claims Tribunal has taken only a sum of Rs.5,000/- per percentage while determining the compensation towards Permanent Disability and requested that a sum of Rs.7,000/- per percentage may be fixed. He further amount of compensation awarded towards other heads are also very low and hence prayed for enhancement of compensation.

6. In reply, the learned counsel appearing for the 2nd respondent-



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Insurance Company submitted that in the Claim Petition itself, the monthly income of the claimant was mentioned as Rs.6,600/- and since no proof of income was filed the Claims Tribunal has rightly fixed a sum of Rs.5,000/- as monthly income of the claimant and the same does not warrant interference. As far as compensation towards permanent disability is concerned, he fairly submitted that since the accident was of the year 2020 a sum of Rs.6,000/- per percentage can be fixed.

7. Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the 2nd respondent-Insurance Company and perused the entire materials on record.

8. It is the case of the appellant that at the time of accident, the injured was earning a sum of Rs.12,000/- per month, but the Tribunal has fixed the monthly income of the appellant at Rs.5,000/- which in the opinion of this Court is very low. The accident took place in the year 2020. The cost of living has been increased enormously and salary of even unskilled workers being increased substantially and therefore this Court is of the view that a sum of Rs.6,500/- can be fixed as monthly income. Accordingly, a sum of



Rs.6,500/- per month is fixed as monthly income of the claimant and therefore a sum of **Rs.19,500/-** (6500x3) is awarded towards Loss of Earnings. As far as compensation awarded towards Permanent Disability is concerned, since the accident was of the year 2020, as rightly agreed by the learned counsel appearing for the Insurance Company, a sum of Rs.6,000/- per percentage is fixed and a sum of **Rs.90,000/-** is awarded towards Permanent Disability.

9. The amounts awarded by the Tribunal under other heads are just and reasonable and hence, the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Grievous Injuries and pain and sufferings	50,000/-	50,000/-	Confirmed
2.	Loss of Earning	15,000/-	19,500/-	Enhanced
3.	Medical Expenses	1,98,447/-	1,98,447/-	Confirmed
4.	Transport Expenses	10,000/-	10,000/-	Confirmed
5.	Nutrition	20,000/-	20,000/-	Confirmed
6.	Attendant expenses	10,000/-	10,000/-	Confirmed



S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
7.	Damage to clothes	1,000/-	1,000/-	Confirmed
8.	Loss of Amenities	10,000/-	10,000/-	Confirmed
9.	Permanent Disability	75,000/-	90,000/-	Enhanced
	Total	Rs.3,89,447/-	Rs.4,08,947/- Rs.4,09,000/- (rounded off)	Enhanced by Rs.19,553/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.3,89,447/- is hereby enhanced to Rs.4,09,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The 2nd respondent-Insurance Company is directed to deposit the award amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of **six weeks** from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.314 of 2021 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge No.I, Salem. On such deposit being made, the Tribunal is directed to transfer the Award amount directly to the Bank account of the Appellant/Claimant through RTGS, within a period of **three weeks** thereafter. The claimant is directed to



pay necessary Court fee, if any on the enhanced compensation. However, it is made clear that if there is any delay in filing the C.M.A. and in case of any earlier order by this Court, depriving interest for the period of delay in question, the interest portion for that period should be excluded for the purpose of granting interest. No costs.

08.01.2024

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Index : Yes / No
Internet : Yes / No

To

1. The United India Insurance Co., Ltd.,
No.5-B/11, State Bank of India Upstairs,
Salem Main Road, Rasipuram,
Namakkal District- 637 403.
- 2 . The Motor Accident Claims Tribunal,
Special Subordinate Judge No.1, Salem.
- 3.The Section Officer,
VR Section,
High Court,
Madras.



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KRISHNAN RAMASAMY, J.

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