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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.604 of 2023

D.Bharathi

..Appellant

.VS.

1.M.Sugumar

2.The National Insurance Company Limited
Third Party Claims Cell
Near Alankar Theatre
Vellore.

..Respondent

(No relief sought against the 1st respondent.
Hence, notice may be dispense with)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 07.04.2021 made in M.C.O.P.No.446 of 2016, on the file of the Motor Accident Claims Tribunal, II Additional District Judge, Ranipet, Vellore District.

For Appellants : Mr.M.Sivakumar

For Respondents : Mr.P.Sankara Narayanan
for R2

No appearance for R1



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JUDGMENT

The claimant not being satisfied with the quantum of compensation awarded by the Tribunal in M.C.O.P.No.446 of 2016, dated 07.04.2021, has filed the present appeal seeking for enhancement of compensation.

2.The case of the claimant is that on 22.06.2016, she was travelling as pillion rider in a two wheeler at Walajah to Majakuppam Road and at about 10.00 hours a cow suddenly crossed the road and the rider of the two wheeler applied sudden break. The deceased was thrown out of the vehicle and she sustained "Traumatic brain injury with right temporal contusion and right temporal acute subdural hemorrhage". The claimant underwent treatment as an inpatient for nearly 21 days and she also underwent a surgery involving right temporo parietal craniotomy and evacuation of subdural hemorrhage. The Medical Board assessed the disability at 55%. 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 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 rider of the two wheeler. After having rendered such a finding, the Tribunal proceeded to fix the compensation under various heads as follows:



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Sl.No.	Compensation awarded under the head	Amount (in Rs.)
1.	Transportation	25,000/-
2.	Extra Nourishment (for 21 days IP)	50,000/-
3.	Cost of attender (for 21 days IP)	30,000/-
4.	Pain and Suffering	50,000/-
5.	Partial Permanent Disability for 55% [Rs.3,000/- x 55]	1,65,000/-
6.	Loss of Amenities and Loss of Future Prospects	50,000/-
7.	Medical Expenses (Ex.P.6 Bills)	3,96,402/-
	Total	7,66,402/-
	Rounded to	7,66,400/-

4.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

5.The claimant not being satisfied with the quantum of compensation awarded by the Tribunal, has filed the present appeal seeking for enhancement of compensation.

6.Heard Mr.M.Sivakumar, learned counsel for the appellant and Mr.P.Sankara Narayanan, learned counsel for R2. The 1st respondent has been served with notice and the name has also been printed in the cause list. There is no appearance either in person or through counsel.



10. In the light of the above discussion, the compensation granted by the



Tribunal is modified as follows:

Sl. No.	Compensation awarded under the head	Amount awarded by this Court (in Rs.)
1.	Transportation	25,000/-
2.	Extra Nourishment (for 21 days IP)	50,000/-
3.	Cost of attender (for 21 days IP)	30,000/-
4.	Pain and Suffering	1,00,000/-
5.	Partial Permanent Disability for 55% [Rs.5,000/- x 55]	2,75,000/-
6.	Loss of Amenities and Loss of Future Prospects	50,000/-
7.	Medical Expenses (Ex.P,6 Bills)	3,96,402/-
8.	Loss of Income [Rs.10,000/- * 6 months]	60,000/-
	Total	9,86,402/-
	Rounded to	9,86,400/-

11. The compensation awarded by the Tribunal at Rs.7,66,400/- is enhanced to Rs.9,86,400/-. The 2nd respondent - Insurance Company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest @ 7.5% p.a., from the date of claim petition till the date of deposit within a period of six weeks from the date of receipt of this judgment. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant/claimant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.



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N. ANAND VENKATESH., J

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

26.06.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
KP

To

1.The National Insurance Company Limited
Third Party Claims Cell
Near Alankar Theatre
Vellore.

2.Motor Accident Claims Tribunal,
II Additional District Judge
Ranipet, Vellore District.

CMA No.604 of 2023