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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.3091 of 2023

S.Umamaheswari

... Appellant

.VS.

1.V.Gajalakshmi

2.The Manager,

Reliance General Insurance Co. Ltd.,

6, Reliance House,

VI Floor, Haddows Road,

Nungambakkam, Chennai – 600 034.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the Award of the Motor Accidents Claim Tribunal V Judge, Small Causes Court, Chennai made in MCOP No.42 of 2017 dated 24.03.2023.

For Appellants : Ms.P.T.Saleem Fathima

For Respondents : Mr.P.Suresh Srinivasan for R2

JUDGMENT

The claimant not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP No.42 of 2017, dated 24.03.2023 has filed this appeal seeking for enhancement of compensation.



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2. The case of the claimant is that on 24.11.2016, she was riding a two wheeler at Asthinapuram Jain Nagar Main Road and at about 8.10 am., when she was proceeding near Sri Vivekananda Flour Mill, the offending vehicle which was a lorry was driven in a rash and negligent manner and it hit the two wheeler. The claimant sustained right foot crush injury with 3rd 4th MT fracture with multiple soft tissues defect and compartment syndrome right leg. The claimant underwent treatment as an inpatient from 24.11.2016 to 30.11.2016 and once again from 19.12.2016 to 23.12.2016. She also underwent operation. The Medical Board assessed the disability at 8%. 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 driver of the offending vehicle. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.2,74,442/- (rounded off Rs.2,74,500/-) under various heads as follows:



S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Disability	40,000
2.	Medical Bills	30,202
3.	Loss of Income	1,32,240
4.	Pain and Sufferings & Mental agony	15,000
5.	Transportation Expenses	10,000
6.	Nutrition Expenses	15,000
7.	Damages to clothes	1,000
8.	Attender Charges	6,000
9.	Loss of Amenities	25,000
	Total	2,74,442
	Rounded Off	2,74,500

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 before this Court seeking for enhancement of compensation.

6.Heard Ms.P.T.Saleem Fathima, learned counsel appearing on behalf of the appellant and Mr.P.Suresh Srinivasan, learned counsel appearing on behalf of the 2nd respondent.



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

8.The injury that was sustained by the claimant has already been noted *supra*. The claimant was undergoing treatment as an inpatient for nearly 12 days in two phases and she also underwent surgery. This Court also had the opportunity to look into the photographs which were marked as Ex.P14.

9.The Tribunal had fixed a sum of Rs.40,000/- under the head of disability. Considering the fact that the accident had taken place on 24.11.2016 which is almost the end of the year 2016, this Court is inclined to grant a sum of Rs.7,000/- per percentage. Accordingly, the compensation under the head of disability is fixed at Rs.56,000/- (Rs.7,000/- x 8).

10.The Tribunal has fixed a sum of Rs.30,202/- towards medical expenses. This Court carefully went through Exs.P9 and P10. On going through the same, it is seen that the claimant had almost spent a sum of Rs.2 Lakhs towards medical expenses. Out of the same, a sum of Rs.1 Lakh was received by the claimant through medical claim. Out of the balance, the Tribunal had only granted a sum of Rs.30,202/-. On going through the bills, it is seen that the



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claimant is entitled for a sum of Rs.98,906. Hence, the compensation under the head of medical bills is enhanced from Rs.30,202/- to Rs.98,806/-.

11.Considering the nature of injuries sustained by the claimant and the treatment undergone by her, this Court is inclined to enhance the compensation under the head of pain and sufferings, transportation expenses, nutrition expenses and attender charges to Rs.50,000/-, Rs.20,000/-, Rs.25,000/- and Rs.15,000/- respectively.

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

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

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Disability	56,000
2.	Medical Bills	98,806
3.	Loss of Income	1,32,240
4.	Pain and Sufferings & Mental agony	50,000
5.	Transportation Expenses	20,000



S.No	Compensation awarded under the head	Amount (in Rs.)
6.	Nutrition Expenses	25,000
7.	Damages to clothes	1,000
8.	Attender Charges	15,000
9.	Loss of Amenities	25,000
	Total	4,23,046
	Rounded Off	4,23,100

14.The compensation awarded by the tribunal at Rs.2,74,500/- is enhanced to Rs.4,23,100/-. The second respondent insurance company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four 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 claimants. 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. No costs.



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30.07.2024

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

To

The Motor Accidents Claim Tribunal V Judge, Small Causes Court, Chennai.



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N. ANAND VENKATESH., J

SSR

CMA No.3091 of 2023

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