



CMA.No.777 of 2021

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WEB C **M.DHANDAPANI., J.**

Today, this matter is listed under the caption “For Being Mentioned” at the instance of the appellant/party-in-person.

2. The appellant/party-in-person submitted that, though this Court, vide judgment dated 04.12.2024 allowed this Appeal in part by enhancing the compensation amount from Rs.1,25,560/- to Rs.2,67,000/- and directed the 2nd respondent-Insurance company to deposit the same before the tribunal along with interest of 7.5% per annum, however, the entire compensation awarded by this Court was not paid in favour of the appellant.

3. On going through the judgment of this Court dated 04.12.2024, this Court is of the view that, there being no ambiguity in the order passed by this Court, no clarification is required. However, in case the appellant is aggrieved, it is open to the appellant to file execution petition before the tribunal and workout her remedy in the manner known law, if so advised.

17.03.2025



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17.03.2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.777 of 2021

Grace Radha @ Radha

... Appellant

Vs.

1.R.Senthil

2.HDFC ERGO Gen. Ins. Co. Ltd.,
New No.528, Old No.559,
2nd Floor, Anna Salai,
Teynampet,
Chennai – 600 018.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow the civil miscellaneous appeal and set aside the judgment and decree dated 18.07.2018 made in M.C.O.P.No.2041 of 2016 on the file of the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai.

For Appellant : Ms.Grace Radha @ Radha
Party – In – Person



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For Respondents : R1 – No Appearance
Mr.N.Somasundaram for R2

J U D G M E N T

This appeal has been filed against the judgment and decree dated 18.07.2018 passed by the Motor Accidents Claims Tribunal, III Court of Small Causes, Chennai, in M.C.O.P.No.2041 of 2016.

2.The appellant/ Party – In – Person submitted that on 01.03.2016, at about 15.30 hours, the appellant travelled as a passenger in a share auto rickshaw bearing Registration No.TN 05 R 0075. The driver of the share auto drove the vehicle in a rash and negligent manner and hit behind the car which was parked on the left side of the road near Vysarpadi, Moorthi Nagar, due to which, the appellant sustained injuries and her right hand little finger was amputated and the second finger got fractured. Thereafter, the injured claimant/ appellant filed claim petition before the Tribunal, claiming compensation of Rs.20 Lakhs.

3.The appellant/ Party – In – Person further submitted that after adjudication, the Motor Accidents Claims Tribunal awarded a sum of Rs.1,25,560/- rounded to Rs.1,25,600/- with interest at the rate of



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7.5% p.a. (except for Rs.5,000/- awarded towards future medical expenses) from the date of numbering of the petition i.e., 28.03.2016 till the date of realization and costs and directed the second respondent to deposit the compensation. Aggrieved by the same, the appellant claimant has filed this appeal for enhancement in compensation.

4.The appellant/ Party – In – Person further submitted that she was doing saree business and was earning a sum of Rs.700/- per day and further submitted that at the time of accident, she was 60 years old and after the accident, she was not able to continue her avocation and further submitted that the compensation awarded by the Tribunal under various heads are very meagre and prayed for enhancement in compensation.

5.The learned counsel appearing for the second respondent Insurance Company submitted that the Tribunal after considering all the factual aspects, awarded the compensation which is just and reasonable and hence, the impugned judgment warrants no interference.



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6. Heard the appellant/ Party – In – Person/ claimant as well as the learned counsel appearing for the second respondent Insurance Company and perused the materials available on record.

7. This appeal has been filed only questioning the quantum of compensation awarded by the Tribunal. Hence, there is no need for any discussion with regard to negligence aspect.

8. The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.21,060/- for functional disability, Rs.30,000/- for disability, Rs.25,000/- for pain and sufferings, Rs.5,000/- for extra nourishment, Rs.5,000/- for transport to Hospital, Rs.500/- for damage to clothes, Rs.1,000/- for attender charges, Rs.10,000/- for medical expenses, Rs.5,000/- for future medical expenses, Rs.13,000/- for loss of income, Rs.10,000/- for loss of amenities and arrived at a total compensation of Rs.1,25,560/- with interest at the rate of 7.5% p.a. (except for Rs.5,000/- awarded towards future medical expenses) from the date of numbering of the petition i.e., 28.03.2016 till the date of realization.

9. This Court physically saw the victim/ claimant. Perusal of



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victim reveals that her right hand little finger is completely amputated and the very next finger is not functioning. The accident is of the year 2016 and she was 60 years old at the time of accident. Hence, this Court fix the monthly income of the appellant claimant as Rs.14,000/- per month including 10% future prospectus. The Tribunal has awarded compensation for disability under two heads functional disability and disability, which in the opinion of this Court is not necessary and this Court awards compensation under single head functional disability by adopting multiplier method. The correct multiplier to be adopted is 5. The Medical Board has not assessed the disability and P.W.2 – Doctor has assessed the disability of the injured claimant. Hence, this Court fix the disability as 15%. Accordingly, the amount awarded for functional disability works out to Rs.1,26,000/- [Rs.14,000/- X 12 X 5= Rs.8,40,000/-; Rs.8,40,000/- X 15/100 = Rs.1,26,000/-].

10.The amount awarded under the head medical expenses, in the opinion of this Court is just and reasonable and the same is confirmed. The amount awarded under the heads future medical expenses and loss of amenities, in the opinion of this Court are not necessary and the same are deleted. The amount awarded under the



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other heads, in the opinion of this Court are low and this Court is inclined to enhance the amount awarded under the other heads.

Accordingly, the amount awarded for pain and sufferings is enhanced to Rs.60,000/- from Rs.25,000/-, the amount awarded for extra nourishment is enhanced to Rs.20,000/- from Rs.5,000/-, the amount awarded for transport to hospital is enhanced to Rs.10,000/- from Rs.5,000/-, the amount awarded for damages to clothes is enhanced to Rs.1,000/- from Rs.500/-, the amount awarded for attender charges is enhanced to Rs.10,000/- from Rs.1,000/-, the amount awarded for loss of income is enhanced to Rs.30,000/- from Rs.13,000/-.

11. Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Functional disability	Rs. 21,060/-	Rs.1,26,000/-
2.	Disability	Rs. 30,000/-	---
3.	Pain and sufferings	Rs. 25,000/-	Rs. 60,000/-
4.	Extra nourishment	Rs. 5,000/-	Rs. 20,000/-
5.	Transport to hospital	Rs. 5,000/-	Rs. 10,000/-
6.	Damages to clothes	Rs. 500/-	Rs. 1,000/-
7.	Attender charges	Rs. 1,000/-	Rs. 10,000/-
8.	Medical expenses	Rs. 10,000/-	Rs. 10,000/-
9.	Future medical expenses	Rs. 5,000/-	---



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S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
10.	Loss of income	Rs. 13,000/-	Rs. 30,000/-
11.	Loss of amenities	Rs. 10,000/-	---
	Total	Rs.1,25,560/-	Rs.2,67,000/-

12.The appellant claimant is entitled to total compensation of Rs.2,67,000/- along with interest at the rate of 7.5% p.a. from the date of numbering of the petition i.e., 28.03.2016 till the date of realization.

13.The civil miscellaneous appeal is partly allowed. The judgment and decree dated 18.07.2018 passed by the Motor Accidents Claims Tribunal, III Court of Small Causes, Chennai, in M.C.O.P. No.2041 of 2016, is modified to the above extent.

14.The second respondent Insurance Company is directed to deposit the modified/ enhanced award amount before the Tribunal within a period of four weeks from the date of receipt of a copy of this judgment, less the amount if any, already deposited. On such deposit being made, the appellant/ claimant is permitted to withdraw the modified/ enhanced award amount, along with accrued interest and



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proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal.

15.The appellant/ claimant shall not be entitled to any interest for the period of delay, if any, in filing/ representing the appeal. The appellant/ claimant is directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accidents Claims Tribunal, III Court of Small Causes, Chennai, shall disburse the compensation amount upon production of certified copy showing proof of payment of Court fee by the appellant/ claimant.

16.The civil miscellaneous appeal is partly allowed. No costs.

04.12.2024

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal,
III Court of Small Causes,
Chennai.

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