



C.M.A.(MD) No.1748 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) No.1748 of 2013

Amsu.

... Appellant

Vs.

1.V.Vishalam,
2.The Branch Manager,
The New India Insurance Company Ltd.,
Chennai.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 29.04.2011 in M.C.O.P.No.142 of 2008 on the file of the Motor Accidents Claims Tribunal cum Additional District and Sessions Court (Special Court), Pudukottai.

For Appellant : Mr.G.Mathavan

For Respondents
for R1 : Ex parte
for R2 : Mr.B.Vijayakarhikeyan



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JUDGMENT

The instant appeal has been filed by the appellant seeking enhancement of the compensation awarded by the Tribunal.

2. Since the finding on negligence is not under challenge, facts leading to the filing of the claim petition before the Tribunal and the manner of the accident are not necessary for deciding the instant appeal.

3. The learned counsel for the appellant/claimant submitted that though she had produced Disability Certificate to show that the claimant had suffered 30% disability, the Tribunal had not awarded the compensation by adopting the multiplier method and the compensation awarded under the other heads is meagre.

4. The learned counsel for the second respondent/Insurance Company, per contra, submitted that the award of the Tribunal is just and reasonable and no interference is called for.

5. The only point for consideration in the instant appeal is '*whether*



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the award of the compensation is just and reasonable?’

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6. The appellant/claimant had produced the Disability Certificate to show that she had suffered 30% of the disability. The nature of the injuries is that she had suffered injuries in her fingers and teeth, which are weakened because of the injuries and therefore, she is unable to chew food. From the above injuries and the Disability Certificate-Ex.P9, it cannot be inferred that the appellant had suffered the functional disability. There is no other evidence to show that the appellant suffered functional disability. Hence, the decision of the Tribunal granting compensation on the percentage method is justified.

7. However, considering the above injuries, the compensation under the head ‘Pain and sufferings’ can be enhanced from Rs.10,000/- to Rs. 20,000/-. Though the Tribunal had awarded the compensation under the head ‘Transportation and medical expenses’ at Rs.5,000/-, this Court is of the view that Rs.5,000/- can be awarded under each head. The Tribunal has not awarded under the head ‘Attendant charges’, this Court is of the view that the same can be awarded at Rs.5,000/-. Thus, the total compensation can be enhanced as follows:



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<i>Sl. No</i>	<i>Description</i>	<i>Amount awarded by the Tribunal</i>	<i>Amount awarded by this Court</i>	<i>Award confirmed, enhanced or granted</i>
1	Disability	Rs. 30,000/-	Rs. 30,000/-	Confirmed
2	Pain and sufferings	Rs. 10,000/-	Rs. 20,000/-	Enhanced
3	Extra Nourishment	Rs. 5,000/-	Rs. 5,000/-	Confirmed
4	Transportation and medical and other expenses	Rs. 5,000/-	Rs.10,000/- (Rs.5,000/- + Rs.5,000/-)	Enhanced
5	Attendant charges	---	Rs. 5,000/-	Granted
Total		Rs. 50,000/-	Rs. 70,000/-	Enhanced by Rs.20,000/-

8. The second respondent/Insurance Company shall deposit the compensation amount of Rs.70,000/- (Rupees Seventy Thousand only), together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of realization (excluding the period of dismissal for default if any) and costs, less the amount already deposited, if any, within a period of four (4) weeks from the date of receipt of a copy of this order.

9. On such deposit, the appellant/claimant is entitled to withdraw the same together with proportionate interest and costs, less the amount already withdrawn, if any, by filing an appropriate application before the



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Tribunal. The appellant/claimant is directed to pay the necessary Court Fee, if any, on the enhanced amount.

10. In the result, this Civil Miscellaneous Appeal is partly allowed.

No costs.

12.09.2024

Index: Yes/ No

NCC: Yes / No

Speaking Order / Non-Speaking Order
apd

To:

1. The Motor Accidents Claims Tribunal cum
Additional District and Sessions Court (Special Court), Pudukottai.

2.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

apd

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