



C.M.A(MD)No.869 of 2014

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.07.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.869 of 2014

R.Vijayashree

... Appellant

Vs.

1.D.Semon

2.Universal Sompo General Insurance Company Limited,
Through its Managing Director,
Corporate and Registered Office at
Unit.401, 4th Floor, Songam Complex,
127, Andheri-Kurla Road, Andheri-East,
Mumbai – 400 059.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the order and decree, dated 28.03.2014, made in M.C.O.P.No.84 of 2013, on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate Court), Tirunelveli and allow the present C.M.A by enhancing the compensation in favour of the petitioner.



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For Appellant : Mr.G.Prabhu Rajadurai
For R-2 : Mr.S.Srinivasa Raghavan

JUDGEMENT

The claimant has filed this Civil Miscellaneous Appeal. It is a case of injury.

2. The contention of the claimant is that the Tribunal ought to have taken the partial permanent disability as 45% and applied the multiplier method for quantifying the compensation. On perusing the injury, it is seen that the claimant had suffered fracture in the left hand and left leg and she was implanted with iron rods. On perusing the Doctor certificate, it is seen that the partial permanent disability was taken as 45%, but the functional disability was not stated. At the relevant point of time, the petitioner was working as a Developer in the R.G.D. Promoters Private Limited. After the accident, she left the job and she is now a



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home maker. Based on the facts and the circumstances of the case, the functional disability utmost can be calculated from 10% to 15%. Therefore, multiplier method is not applicable.

3. However, this Court is of the considered opinion that the Tribunal ought to have granted Rs.5,000/- per percentage of the partial permanent disability. Hence, the compensation shall be increased on various other heads as follows:

(i) As far as the loss of income during the treatment period is concerned, the same is increased from 12,000/- to 15,000/-.

(ii) As far as the nourishment is concerned, the same is enhanced from Rs.2,000/- to Rs.10,000/-.

(iii) For the pain and sufferings, the amount is enhanced from Rs.15,000/- to Rs.50,000/-.

*(iv) For partial permanent disability, this Court is applying the method of income * disability % (5000*45%) to calculate, which comes to Rs.2,25,000/-.*

(v) The compensation granted under the other heads are confirmed.



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The modified award amount granted by this Court is as under:

Sl. No.	Heads	Award granted by Tribunal	Award granted by this Court	Enhanced / Confirmed / Reduced
1.	Loss of Income during treatment period	Rs.12,000/-	Rs.15,000/-	Enhanced
2.	Transportation	Rs.2,000/-	Rs.2,000/-	Confirmed
3.	Nourishment	Rs.2,000/-	Rs.10,000/-	Enhanced
4.	Attendar Charges	Rs.2,000/-	Rs.2,000/-	Confirmed
5.	Medical Expense	Rs.89,798/-	Rs.89,798/-	Confirmed
6.	Pain and Sufferings	Rs.15,000/-	Rs.50,000/-	Enhanced
7.	Partial Permanent Disability	Rs.67,500/-	Rs.2,25,000/-	Enhanced
	Total	Rs.1,90,298/-	Rs.3,93,798/-	Enhanced

The total compensation granted by the Tribunal is enhanced from Rs.1,90,298/- to Rs.3,93,798/- by this Court.

4. Hence, the 2nd respondent Insurance Company is directed to deposit Rs. 3,93,798/- with interest at the rate of 7.5% per annum and costs to the credit of M.C.O.P., on the file of claims Tribunal, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the same with accrued



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interests and costs, less the amount already withdrawn by her, if any, by filing appropriate application before the Tribunal.

5. With the above said observations, the Civil Miscellaneous Appeal is **partly allowed**. No costs.

29.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

Nsr

To:

- 1.Motor Accident Claims Tribunal /
Chief Judicial Magistrate, Tirunelveli.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

Nsr

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