



CMA.(MD)Nos.547 of 2024 and 721 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.08.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CMA.(MD)Nos.547 of 2024 and 721 of 2022

CMA.(MD)No.547 of 2024

Rajakumari

... Appellant

Vs.

1.Venkatesan

2.United India Insurance Company Limited,
Bharathidasan Salai,
Cantonment,
Trichy.

3.Chettinad College of Engineering & Technology,
NH 67, Karur-Trichy Highways,
Puliyur Post,
Karur.

4.Oriental Insurance Company Limited,
Bharathidasan Salai,
Cantonment,
Trichy.

... Respondents

Prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award amount in MCOP.No.806 of 2015 on the file of the MACT/Special Sub Court, Tiruchirappalli dated 30.11.2021.



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For Appellant : Mr.R.Jenifer Bibin
For R4 : Mr.C.Jawahar Ravindran

R1 & R3-Ex-Parte

CMA.(MD)No.721 of 2022

M/s.United India Insurance Company Limited,
represented by its Branch Manager,
Bharathidasan Salai,
Cantonment,
Trichy.

... Appellant

Vs.

1.Rajakumari

2.Venkatesan

3.M/s.Chettinad College of Engineering & Technology,
represented through its Principal,
NH 67, Karur-Trichy Highways,
Puliyur Post,
Karur.

4.M/S.Oriental Insurance Company Limited,
represented by its Branch Manager,
Bharathidasan Salai,
Cantonment,
Trichy.

... Respondents

(Cause title is accepted vide Court order dated 13.07.2022 made in CMP.
(MD)No.5892 of 2022 in CMA.SR.(MD)No.23183 of 2022)



CMA.(MD)Nos.547 of 2024 and 721 of 2022

Prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the judgement and decree passed in MCOP.No.806 of 2015 dated 30.11.2021 on the file of the Motor Accident Claims Tribunal cum Special Sub Court, Thiruchirapalli and praying to set aside the same.

For Appellant : Mr.C.Jawahar Ravindran

For R1 : Mr.R.Jenifer Bibin

R2 & R4-Dispensed with

COMMON JUDGMENT

These two appeals arise from an award passed in the claim petition in MCOP.No.806 of 2015 filed before the Motor Accident Claims Tribunal cum Special Sub Court, Thiruchirapalli, seeking compensation for the injury suffered by the claimant.

2.CMA.(MD)No.721 of 2022 has been filed by the Insurance Company seeking reduction of the compensation awarded by the Tribunal. The injured claimant has preferred appeal in CMA.(MD)No.547 of 2024 seeking enhancement of the compensation.



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3.The claimants filed a claim petition stating that on 31.03.2015, while she was travelling in the college bus, a lorry bearing Reg.No.TN68 J 4944, which is insured with the appellant/Insurance Company, came in the opposite direction and caused a collision, as a result of which, she sustained grievous injuries.

4.The Insurance Company filed a counter stating that the accident did not take place due to the negligence of driver of the insured lorry and that in any case, the compensation claimed was excessive.

5.The Insurance Company, in which, the college bus was insured, has also filed a counter stating that the accident took place only due to the driver of the lorry.

6.Before the Tribunal, the claimant examined P.W.1 and P.W.2 and marked Exs.P1 to P17. The appellant/Insurance Company neither examined any witnesses nor marked any documents. The disability certificate was marked as Court document in Ex.C1. The acceptance letter and the salary certificate of the claimant were also marked as X.1 to X.3.



7.The Tribunal, after taking into consideration the oral and documentary evidence, held that the accident took place only due to the rash and negligent driving of the lorry driver and hence, directed the appellant/Insurance Company to pay the compensation of Rs.13,51,405/-.

8.The learned counsel appearing for the appellant/Insurance Company submitted that the multiplier method adopted by the Tribunal is not warranted as no evidence has been let in by the claimant to prove the functional disability and even after the accident, she had worked in the College she had resigned the job on her own.

9.Per contra, the learned counsel for the claimant submitted that even assuming that the claimant had worked for some time in the College, the fact remains that she was unable to move her hands because of the severe injury and hence, the multiplier method adopted by the Tribunal is reasonable and that the compensation awarded under the other heads requires enhancement.

10.This Court has given consideration to the rival submissions made on either side and perused the evidence on record.



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14.The accident is of the year 2015. This Court, in ***Kamal Vs. Venkatesan*** in CMA.No.1586 of 2023 awarded Rs.5,000/- per percentage of the disability for an accident which took place in the year 2015, based on the decision of the Division Bench, reported in ***2022(2)TNMAC 97 (DB)*** in ***Dr.Prafulla Vs. Sajeebai Balakrishnan and others***. The claimant has established that she had suffered 50% disability on the basis of Ex.C.1. Therefore, the claimant would be entitled to get Rs.2,50,000/- (Rs.5,000/- x 50) under the head of disability. The claimant had suffered fracture in both hands, which is revealed from the medical records produced on the side of the claimant. In such circumstances, this Court is of the view that the compensation awarded under the other heads pain and sufferings and loss of amenity would be enhanced to Rs.1,00,000/- and Rs.75,000/- respectively.

15.The award under the head of loss of income can be enhanced to Rs.20,000/- and the award under the head of attendant charges can be enhanced to Rs.20,000/-. The award passed under the other heads is confirmed. Hence, the award passed by the Tribunal is hereby modified as follows:-



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Sl. No	Description	Amount awarded by the Tribunal	Amount awarded by this Court	Award confirmed, enhanced or granted
1	For Disability	Rs.8,57,000/-	Rs.2,50,000/-	Modified
2	Pain and Sufferings	Rs.25,000/-	Rs.1,00,000/-	Enhanced
3	Loss of Income	Rs.10,000/-	Rs.20,000/-	Enhanced
4	Attendant Charges	Rs.10,000/-	Rs.20,000/-	Enhanced
5	Damages for Cloths and Other Articles	Rs.1,000/-	Rs.1,000/-	Confirmed
6	For Extra Nourishment	Rs.1,000/-	Rs.1,000/-	Confirmed
7	Transport Charges	Rs.10,000/-	Rs.10,000/-	Confirmed
8	Medical Expenses	Rs.4,18,405/-	Rs.4,18,405/-	Confirmed
9	Loss of Amenity	Rs.10,000/-	Rs.75,000/-	Enhanced
Total		Rs.13,51,405/-	Rs.8,95,405/-	Modified

16.The appellant/Insurance Company is directed to deposit Rs.8,95,405/- (Rupees Eight Lakhs Ninety Five Thousand Four Hundred and Five 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.



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18.On such deposit, the claimant is entitled to withdraw the aforesaid amount together with proportionate interest and costs, less the amount already withdrawn, if any, by filing appropriate application before the Tribunal. The claimant is directed to pay the necessary Court Fee, if any, on the enhanced amount.

19.In the result, the Civil Miscellaneous Appeal in CMA.(MD) No.547 of 2024 is dismissed and the Civil Miscellaneous Appeal in CMA.(MD)No.721 of 2022 is allowed. No costs.

22.08.2024

Index: Yes/ No
NCC: Yes / No
Speaking Order / Non-Speaking Order
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SUNDER MOHAN, J.

gns

To

MACT/Special Sub Court,
Tiruchirappalli.

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721 of 2022

22.08.2024