



C.M.A.No.437 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 25.03.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.437 of 2025

Priyadharshini

... Appellant

VS.

1.P.Latha

2.United India Insurance Co. Ltd.,
Silingi Building, IV Floor,
No.134, Greams Road,
Chennai – 600 006

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to allow this Civil Miscellaneous Appeal by enhancing the compensation awarded in the Fair and Decretal order, dated 27.11.2023, passed in M.C.O.P.No.2622 of 2016, on the file of the Motor Accidents Claims Tribunal, (Special Sub Court No.1, Motor Accidents Claims Petitions), Small Causes Court, at Chennai).

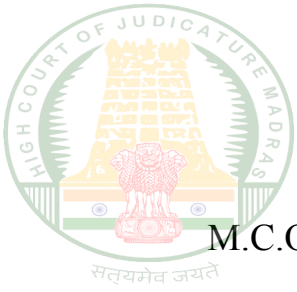
For Appellant : M/s.Amar Dineshbhai Pandiya

For R2 : Mr.J.Chandran

For R1 : Notice Dispensed With

J U D G M E N T

Not satisfied with the quantum of compensation awarded by the Motor Accidents Claims Tribunal, (Special Sub Court No.1, Motor Accidents Claims Petitions), Small Causes Court, Chennai in



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M.C.O.P.No.2622 of 2016, dated 27.11.2023, the injured/claimant is before

WEB COM this Court.

2. It was the case of the claimant that she was travelling as a passenger in the Bus bearing Registration No.TN-07-AY-4185 belonged to the 1st respondent insured with the 2nd respondent on 15.02.2016. When the bus came near Thirumanthorai Tol Plaza in Chennai-Trichy Highways, the driver of the bus had driven the bus in a rash and negligent manner and hit against another bus bearing Registration No.TN-01-AN-0959. As a result of the accident, the claimant suffered grievous injuries and hence, a claim petition was filed seeking compensation of Rs.9,00,000/-.

3. The 1st respondent-owner of the offending vehicle remained *exparte* before the Tribunal. The insurer of the bus namely the 2nd respondent filed counter and opposed the claim petition on the ground that accident did not occur due to the negligence on the part of the driver of the bus belonged to the 1st respondent.

4. Before the Tribunal, the claimant herein was examined as PW.1 and on behalf of the claimant herein, 19 documents were marked as Exs.P1



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to P19. On behalf of the 2nd respondent/Insurance Company, one Jawahar was examined as RW.1 and 5 documents were marked as Exs.R1 to R5. The Disability Certificate issued by the Medical Board to the claimant was marked as Ex.C1.

5. The Tribunal based on the evidence available on record, came to the conclusion that accident had occurred due to the negligence on the part of the driver of the bus insured with the 2nd respondent. The amount payable to the claimant was quantified at Rs.3,65,000/-. Not satisfied with the quantum of compensation, the claimant has come by way of this appeal.

6. The learned counsel appearing for the appellant/claimant as well as learned counsel appearing for the 2nd respondent-Insurance Company have not advanced any arguments on the questions of negligence and liability. Hence, facts necessary to decide those questions are not discussed in this appeal.

7. The learned counsel appearing for the appellant would submit that the amount of Rs.5,000/- awarded by the Tribunal per percentage of



disability is very much on lower side. He also submitted that the amount awarded by the Tribunal under the head loss of earnings at Rs.20,000 is also very much on lower side and the same requires enhancement.

8. The learned counsel appearing for the 2nd respondent/Insurance Company would submit that considering the date of accident, the amount awarded by the Tribunal under the head disability and loss of earnings during treatment period are reasonable and hence, sought for dismissal of the appeal.

9. It is not in dispute that the accident had occurred on 15.02.2016. A Division Bench of this Court in ***Future General India Insurance Company Limited vs. Manivannan and others*** (C.M.A.No.3334 of 2021, dated 15.06.2022), granted Rs.5,000/- per percentage of disability for the accident occurred in the year 2016. Therefore, the amount awarded by the Tribunal under the head disability is affirmed. In the case on hand, the Ex.C1-Disability Certificate would indicate that the claimant suffered a disability of 25%. If Rs.5,000/- is granted per percentage of disability, the claimant is entitled to Rs.1,25,000/-. Therefore, the amount awarded by the Tribunal under the said head is affirmed.



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10. It is seen from Ex.P5-Discharge Summary, the claimant suffered fracture in the neck of right femur and she was admitted in hospital for taking treatment as inpatient twice from 17.02.2016 to 19.02.2016 and 07.02.2017 to 10.02.2017. Taking into consideration the nature of injury and period of hospitalisation, the amount of Rs.30,000/- awarded under the head pain and sufferings is increased to Rs.40,000/-. Likewise, the amount awarded under the heads transportation charges and attender charges are increased to Rs.10,000/- each. Having regard to the nature of injury, the amount of Rs.10,000/- awarded under the head loss of amenities is increased to Rs.20,000/-.

11. The accident had occurred in the year 2016, even if the notional income of the claimant is fixed at Rs.15,000/-, having regard to the fact, she suffered fracture in neck of right femur, the claimant can be given loss of earnings for 4 months period. Therefore, the amount of Rs.20,000/- awarded under the head loss of earnings is increased to Rs.60,000/-. In all the claimant is entitled to Rs.4,38,020/-.



12. In view of the discussions made earlier, the award passed by the

WEB COPY Tribunal is modified as follows:-

Sl. No.	Description	Compensation awarded by the Tribunal	Compensation awarded by this Court	Remarks
1.	Disability	Rs.1,25,000/-	Rs.1,25,000/-	Confirmed
2.	Pain and Sufferings	Rs.30,000/-	Rs.40,000/-	Enhanced
3.	Transportation	Rs.4,000/-	Rs.10,000/-	Enhanced
4.	Medical Expenses	Rs.1,63,020/-	Rs.1,63,020/-	Confirmed
5.	Extra Nourishment	Rs.10,000/-	Rs.10,000/-	Confirmed
6.	Attender Charges	Rs.2,100/-	Rs.10,000/-	Enhanced
7.	Loss of Earnings	Rs.20,000/-	Rs.60,000/-	Enhanced
8.	Loss of Amenities	Rs.10,000/-	Rs.20,000/-	Enhanced
Total Compensation		Rs.3,64,120/- (Rounded off to Rs.3,65,000/-)	Rs.4,38,020/-	Enhanced by Rs.73,020/-

13. Accordingly, the compensation awarded by the Tribunal is enhanced to Rs.4,38,020/- from Rs.3,65,000/-. The 2nd respondent/Insurance Company is directed to deposit the enhanced award amount of Rs.4,38,020/- together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation (excluding the delay period of 240 days as per the order made in C.M.P.No.458 of 2025, dated 21.01.2025), to the credit of M.C.O.P.No.2622 of 2016 on the file of the Motor Accidents Claims Tribunal (Special Sub Court No.1, Motor Accidents Claims Petitions), Small Causes Court, Chennai, after deducting the amount



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deposited already, if any, within a period of six weeks from the date of receipt of copy of this judgment. On such deposit, the appellant/claimant is permitted to withdraw the award amount by making formal application before the Tribunal.

14. With the above directions, the Civil Miscellaneous Appeal is partly allowed. No costs.

25.03.2025

Index :Yes/No
Speaking order :Yes/No
Neutral Citation :Yes/No
dm

To

1.The Motor Accidents Claims Tribunal,
(Special Sub Court No.1, Motor Accidents Claims Petitions),
Small Causes Court, at Chennai).

2.United India Insurance Co. Ltd.,
Silingi Building, IV Floor,
No.134, Greaves Road,
Chennai – 600 006.

3.The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTHAR, J.

dm

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