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CMA.No.66 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :17.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.66 of 2023

Lalitha Ambika

... Appellant

Vs.

1. N.Muthaiya

2.IFFCO TOKYO General Insurance Co., Ltd.,

Kamban Street, Sangu Pettai

Perambalur-621 212

Policy No.TIT/91628623

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to allow the Civil Miscellaneous Appeal and set aside the award passed by the Motor Accidents Claims Tribunal and Principal District Judge, Perambalur made by its decree and judgment dated 27.06.2022 in MCOP.No.325 of 2019.

For appellant : Mr.C.Vidhusan

For respondents : Mr.J.Michael Visuvasam for R2

R1-No appearance

JUDGMENT

Not satisfied with the quantum of compensation awarded by the Tribunal, the injured claimant has come before this court by way of this appeal.



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2. It is not in dispute that the appellant/claimant suffered injury in a road accident that had taken place on 19-10-2018. Since the learned counsel for the appellant confined his arguments to the question of quantum, the facts necessary for deciding the questions of negligence and liability are not discussed in this appeal.

3. The learned counsel for the appellant/claimant submits that due to the accident that had taken place on 19-10-2018, the appellant sustained fracture on L1 vertebral bone and received treatment as inpatient from 19-10-2018 to 28-10-2018. The Tribunal failed to grant any amount under the heads pain and suffering, transportation expenses, extra nourishment, etc. He also submitted that the amount awarded under the head permanent disability is very much on the lower side. He also submitted that the Tribunal committed an error in awarding no amount under the head loss of income during treatment period.



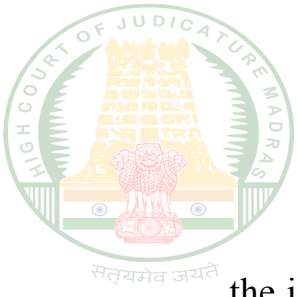
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4. The Exhibit C1 is the disability certificate issued by the Medical Board. A perusal of the same would suggest that the claimant suffered a disability of 2%. The Tribunal adopted percentage basis and awarded a sum of Rs.3000/- per percentage of the disability.

5. The accident had occurred in the year 2018. Therefore, the Tribunal should have awarded at least Rs.7000/- per percentage of the disability. Hence, the claimant is entitled to Rs.14,000/- under the head 'disability'. The amount of Rs.22,854/- awarded under the head medical expenses is based on the Exhibit P17 series and the same is confirmed.

6. The appellant/claimant has taken treatment in SRM Hospital from 19-10-2018 to 28-10-2018. Therefore, it is clear that the appellant could have been out of action at least for a period of one month. The Tribunal failed to give any amount under the head loss of income on the ground that the claimant failed to produce any document to prove



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the income. Even if no document is produced to prove the income, the Tribunal is entitled to fix a notional income. Having regard to the date of accident, this Court deems fit to fix Rs.15,000/- towards the notional income and award a sum of Rs.15,000/- under the head loss of income during treatment period.

7. The Exhibit P-15, Outpatient slip and Exhibit P-16, discharge certificate would indicate that the appellant sustained injury in L1 Vertebral bone and she was in the hospital for nearly 10 days. Therefore, a sum of Rs.25,000/- is awarded under the head pain and suffering. In addition to the above said sum, the claimant is entitled to Rs.5,000/- under the head transportation and Rs.10,000/- under the head extra nourishment.

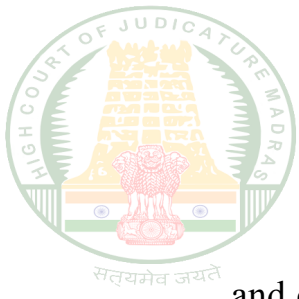
8. In view of the discussions made earlier, the claimant is entitled to Rs.91,854/- instead of Rs.28,854/- as granted by the Tribunal. The split up details of modified award is given below:-



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Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Pain and Suffering	Nil	25,000/-	Granted
2.	Extra Nourishments	Nil	10,000/-	Granted
3.	Transportation Expenses	Nil	5,000/-	Granted
4.	Disability	6000/-	14,000/-	Enhanced
5.	Loss of Income	Nil	15,000/-	Granted
6.	Medical Expenses	22,854/-	22,854/-	Confirmed
	Total	28,854/-	91,854/-	Enhanced by Rs.63,000/-

10. With the above modifications, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.28,854/- is hereby enhanced to Rs.91,854/- The appellant/claimant is entitled to interest at the rate of 7.5% per annum (excluding the delay period, if any) from the date of filing of the claim petition till the date of realization. The second respondent/Insurance Company is directed to deposit the enhanced sum along with interest



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and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of copy of this judgment. On deposit of the enhanced sum, the appellant/claimant is entitled to withdraw the same along with interest and costs, less the amount if any, already withdrawn by filing a formal application before the Tribunal.

No costs.

17.02.2025

Index:Yes/No
Internet:Yes/No
nr

To

1. Motor Accident Claims Tribunal,
Principal District Judge, Perambalur
2. The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTHAR, J.

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