



C.M.A.No.833 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 08.04.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.833 of 2025

D.Runu Rani Mishra

... Appellant

VS.

1.M/s.J.M.Joel Samson
No.177/2, Mettur Street, Ayanavaram,
Chennai – 600 023.

(1st Respondent was set Ex-Parte by the Tribunal)

2.The Manager, Iffco-Tokio General Insurance Co.Ltd.,
No.128, IV Floor, Iffco Bhavan, Habibullah Road,
T.Nagar, Chennai-600 017.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to enhance the compensation awarded in Order dated 02.09.2024 in MCOP.No.979 of 2022, on the file of the learned Motor Accident Claim Tribunal and II Judge, Court of Small Causes Court, Chennai.

For Appellant : Mr.S.Ravi Kumar

For R2 : Mr.Michael Visuvasam

For R1 : Notice Dispensed With



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J U D G M E N T

WEB COPY Not satisfied with the quantum of compensation granted by the Motor Accident Claims Tribunal, II Judge, Court of Small Causes Court, Chennai in M.C.O.P.No.979 of 2022, dated 02.09.2024, the injured/claimant has come before this Court.

2. It is the case of the claimant that she suffered grievous injuries in a road accident that had occurred on 10.02.2022. According to her, she was riding Motorcycle bearing Registration No.TN-2AU-0199 properly by wearing helmet from west to east at 2nd Avenue and 5th Avenue Junction, Anna Nagar, Chennai. The Volkswagen Polo Car bearing Registration No.TN-01-AR-6050 belonged to the 1st respondent and insured with the 2nd respondent proceeding in east to west direction was driven in a rash and negligent manner and dashed against the two wheeler. As a result of the accident, the claimant fell down on the road and sustained grievous injuries including humerus fracture and multiple rib fractures etc. Therefore, a claim petition was filed seeking compensation of Rs.49,00,000/-.



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WEB COPY 3. The 1st respondent remained *exparte* before the Tribunal. The 2nd respondent filed counter and resisted the claim petition by denying various averments found in the claim petition.

4. Before the Tribunal, the appellant/claimant was examined as PW.1 and Official of Apollo Hospital namely Sankar was examined as PW.2. On behalf of the claimant, 12 documents were marked as Exs.P1 to P12. On behalf of the respondents, no witness was examined and no document was marked. The disability certificate issued by the medical board was marked as Ex.C1.

5. The Tribunal based on the evidence available on record, came to the conclusion that accident had occurred only due to the rash and negligent driving of the car by the 1st respondent's driver. The compensation payable to the claimant was quantified at Rs.12,21,700/-. Not satisfied with the quantum of compensation, the claimant has come before this Court.

6. The learned counsel appearing for the appellant as well as learned counsel appearing for the 2nd respondent have not advanced any arguments



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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 having regard to the grievous injuries sustained by the claimant, the Tribunal should have adopted multiplier method. The learned counsel further submitted that the amount awarded by the Tribunal under the head loss of income during treatment period is a meagre one.

8. The learned counsel appearing for the 2nd respondent-Insurance Company would submit that absolutely there is no evidence available on record to suggest that the injuries suffered by the claimant resulted in interference with her avocation and hence, the Tribunal was justified in awarding compensation on percentage basis. The learned counsel also submits that compensation awarded by the Tribunal, in the facts and circumstances of the case, appeared to be reasonable.

9. A perusal of the Discharge Summary-Ex.P3 would indicate that the claimant suffering following injuries:-



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“Polytrauma With Multiple Injuries:

- 1.Comminuted Left Proximal Humerus Fracture*
- 2.Fracture Both Sacral Ala With Mild Diastasis of Right SI Joint-Managed Conservatively*
- 3.Fracture Left Pubic Bone-Managed Conservatively*
- 4.Fracture Both Inferior Pubic Ramus-Managed Conservatively*
- 5.Fracture Anterior Pillar of Both Acetabulum-Managed Conservatively*
- 6.Bilateral Hydropneumothorax, Requiring ICD On Right Side*
- 7.Both Foot Injury-Managed By Plastic Surgery.*
- 8.Fracture 1st-8th RIB Right Side”*

10. It is seen from the Discharge Summary, the claimant had undergone surgery for internal fixation to treat the comminuted fracture in left humerus bone. The other fractures suffered by the claimant were managed conservatively. The Medical Board which examined the claimant issued Ex.C1-Disability Certificate fixing permanent disability at 36%.

11. In the claim petition, it was stated by the claimant that she was earning Rs.20,000/- per month by taking home tuition. The claimant appeared before the Tribunal and deposed as PW.1 without any difficulty.



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There is no acceptable evidence available on record to suggest that due to the injuries suffered by the claimant, she is prevented from taking tuition classes. In these circumstances, we can safely come to the conclusion that the injury suffered by the claimant has not interfered with her avocation. Therefore, the Tribunal was justified in quantifying compensation by following percentage basis.

12. The accident had occurred in the year 2022. The Tribunal granted a sum of Rs.5,000/- per percentage of disability. Taking into consideration the date of accident, this Court feels it would be appropriate to grant Rs.9,000/- per percentage of disability. Therefore, the claimant is entitled to Rs.3,24,000/- (36 x 9000) under the head permanent disability.

13. The Tribunal granted loss of income only for two months. Taking into consideration the various fractures suffered by the claimant, this Court feels it would be appropriate to grant loss of income for four months. Considering the date of accident, the notional income of the claimant is fixed at Rs.18,000/- and the claimant is entitled to Rs.72,000/- (4 x 18000) under the head loss of income during treatment period.



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14. The amount awarded by the Tribunal under the head pain and suffering and loss of amenities are increased to Rs.40,000/- each. The amount awarded under the head transportation is increased to Rs.10,000/-. The amount awarded by the Tribunal under other heads like extra nourishment, attender charges and medical expenses are affirmed. Therefore, the award passed by the Tribunal is modified as follows:-

Sl. No.	Description	Compensation awarded by the Tribunal	Compensation awarded by this Court	Remarks
1.	Loss of Income	Rs.32,000/-	Rs.72,000/-	Enhanced
2.	Pain and Suffering	Rs.35,000/-	Rs.40,000/-	Enhanced
3.	Loss of Amenities and Enjoyment of life	Rs.35,000/-	Rs.40,000/-	Enhanced
4.	Transport of Hospital	Rs.2,000/-	Rs.10,000/-	Enhanced
5.	Extra Nourishment	Rs.10,000/-	Rs.10,000/-	Confirmed
6.	Attender Charges	Rs.10,000/-	Rs.10,000/-	Confirmed
7.	Medical Expenses	Rs.9,17,700/-	Rs.9,17,700/-	Confirmed
8.	Permanent Disability	Rs.1,80,000/-	Rs.3,24,000/-	Enhanced
Total		Rs.12,21,700/-	Rs.14,23,700/-	Enhanced by Rs.2,02,000/-

15. In view of the discussions made earlier, the compensation



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awarded by the Tribunal is enhanced to Rs.14,23,700/-. The 2nd

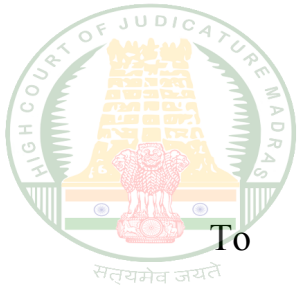
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Respondent/Insurance Company is directed to deposit the enhanced award amount of Rs.14,23,700/- together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, to the credit of M.C.O.P.No.979 of 2022 on the file of the Motor Accident Claims Tribunal, II Judge, Court of Small Causes, Chennai, 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.

16. With the above direction, the Civil Miscellaneous Appeal is partly allowed. No costs.

08.04.2025

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



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To

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- 1.The Motor Accident Claim Tribunal and II Judge,
Court of Small Causes Court, Chennai.
- 2.The Manager, Iffco-Tokio General Insurance Co.Ltd.,
No.128, IV Floor, Iffco Bhavan, Habibullah Road,
T.Nagar, Chennai-600 017.
- 3.The Section Officer,
VR Section, High Court,
Madras.



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S.SOUNTHAR, J.

dm

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