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CMA.No.720 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 03.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.720 of 2025

Indhra

... Appellant

Vs.

1. P.Jagadeesan
2. Bajaj Allianz General Insurance Company Ltd.,
Isana Kattima Building, 5th floor,
New No.497-498, Poonamallee High Road,
Arumbakkam, Chennai 600 016.

... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act to enhance the compensation awarded in the judgment and decree dated 26.11.2024 passed in MCOP No.3985 of 2017 on the file of the II Special Court, Motor Accident Claims Tribunal, Court of Small Causes, Chennai.

For appellant : Mr.K.Balaji

For Respondents: Mr.J.Micheal Visuvasam
for second respondent



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JUDGMENT

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

2. According to the claimant, she was travelling as a pillion rider in a two wheeler on 26.04.2017 in GST Road and when she came near Mohideen Biriyani shop at Pallavaram, a two wheeler with registration No.TN 02 BC 9866 belonging to the first respondent and insured with the second respondent came in a rash and negligent manner and dashed against the two wheeler of the claimant. Therefore, the claimant sustained grievous injuries and was treated in the hospital. Hence, she filed claim petition seeking compensation of Rs.6,00,000/-.

3. The first respondent, owner of the vehicle remained exparte before the Tribunal. The claim petition was opposed by the second respondent/insurer of the offending vehicle on the ground that the accident had occurred only due to the negligence on the part of the two wheeler, in which the claimant travelled as a pillion rider.



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4. The Tribunal based on the evidence available on record came to the conclusion that the the accident had occurred only due to the rash and negligent driving of the vehicle belonging to the first respondent, insured with the second respondent. The amount payable to the claimant was quantified at Rs.2,32,876/-. Not satisfied with the quantum of compensation awarded by the Tribunal, the claimant has filed the present appeal.

5. Both the counsel for the appellant and the second respondent have not advanced any arguments on the questions of negligence and liability and therefore, the facts necessary for fixing negligence and liability have not been considered in the present appeal.

6. The learned counsel for the appellant submits that the Tribunal committed an error in granting only a sum of Rs.5,000/- per percentage and the same needs enhancement. He also submits that the compensation awarded by the Tribunal under the heads loss of income and loss of amenities are on the lower side and the same requires enhancement.



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7. The learned counsel for the second respondent/insurance company would submit that the claimant was not at all admitted as inpatient and having regard to the nature of injury suffered by the claimant, the compensation awarded by the Tribunal is justified one and the same requires no interference by this court.

8. It is seen from Ex.P2, Accident Register copy and Ex.R8, Medical documents and medical bills that the claimant suffered the following injuries.

“ Dento-alveolar fracture of upper jaw, Severe facial injuries, severe head injury, severe inside injury in the left knee and multiple injuries of all over the body.”

The medical Board, which examined the claimant, assessed the disability suffered by the claimant at 30% and issued Ex.C1 disability certificate. The Tribunal having come to the conclusion that the claimant has not suffered any functional disability, awarded the compensation under the head loss of disability on percentage basis. The Tribunal granted a sum of Rs.5,000/- per percentage of the disability. The accident had occurred in the year 2017. Therefore, as



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per the decision of the Division Bench of this Court in CMA No.3334 of 2021, dated 15.06.2022 *in Future General India Insurance Company Limited Vs. Manivannan and two others*, this court is inclined to grant Rs.7,000/- per percentage of the disability. Therefore, the claimant is entitled to Rs.2,10,000/- (30 x 7000) towards loss of partial permanent disability.

9. Having regard to the nature of injury, the claimant is entitled to the compensation under the head loss of income for three months at the rate of 15,000/- per month. Accordingly, the compensation awarded under the head loss of income is enhanced to Rs.45,000/-.

10. The Tribunal has not awarded any compensation under the head loss of amenities. Having regard to the nature of injuries suffered by the claimant, a sum of Rs.15,000/- is awarded towards loss of amenities.

11. The compensation awarded under the various others heads are just and reasonable and hence, the same are confirmed.



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12. Accordingly, the compensation awarded by the Tribunal is revised as follows.

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Treatment and Medical expenses	6,376	6,376	confirmed
2.	Transportation charges	10,000	10,000	confirmed
3.	Extra nourishment	10,000	10,000	confirmed
4.	Attender charges	10,000	10,000	confirmed
5	Loss of partial disability	1,50,000	2,10,000	enhanced
6	Loss of income	31,500	45,000	enhanced
7	pain and sufferings	15,000	15,000	confirmed
8	Loss of amenities	--	15,000	granted
	Total	2,32,876	3,21,376	enhanced by 88,500

13. With the above modifications, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,32,876/- is hereby enhanced to **Rs.3,21,376/-** together with interest at 7.5% per annum from the date of claim petition till the date of deposit.



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14. The **second respondent** is directed to deposit the compensation amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of **six weeks** from the date of receipt of copy of this judgment. On such deposit being made, the claimant shall be permitted to withdraw the compensation amount along with interest and costs, less the amount if any, already withdrawn, by making formal application before the Tribunal.

There shall be no order as to costs.

03.04.2025

Index : Yes/No
Speaking order : Yes/No
Neutral citation : Yes/No
mst

To

1. The II Special Court,
Motor Accident Claims Tribunal,
Court of Small Causes, Chennai.
2. The Section Officer,
V.R.Section, Madras High Court.



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S.SOUNTHAR, J.

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