



CMA No. 157 / 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 18.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

Civil Miscellaneous Appeal No. 157 of 2022

M.Eaga Nayaki

... Appellant

Versus

1.Madras Knitwear Ltd.,
No.69, Manachery Village,
Kundrathur, Chennai – 600 069.

2.The New India Assurance Co. Ltd.,
No.45, Moore Street, Chennai – 1,
Now shifted to,
232, NSC Bose Road,
Chennai – 600001.

... Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 seeking to set aside the award passed on 22.11.2018 by the learned VI Judge, Small Causes Court (Motor Accident Claims Tribunal), Chennai in M.C.O.P.No.5094 of 2002.

For Appellant : Mr. A. Shanmugaraj.

For Respondents : R1 – NDW
Mrs. R. Sree Vidhya for R2.



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J U D G M E N T

Aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal in M.C.O.P. No.5094 of 2002 dated 22.11.2018, the appellant/claimant has come by way of this appeal.

2.It is not in dispute that the appellant/claimant suffered injury in a road accident that had taken place on 09.07.2000, while she was travelling in the bus bearing Registration No.TMY-648 belonging to the first respondent, insured with the second respondent. It is the case of the appellant/claimant that the bus was driven by its driver in a rash and negligent manner and the same got capsized and as a result of which, the appellant/claimant sustained injuries. The appellant/claimant filed Motor Claims Original Petition seeking compensation of Rs.1,00,000/-. The tribunal fixed compensation at Rs.33,500/-. Not satisfied with the quantum of compensation, the appellant has come before this Court by way of this appeal. Both the learned counsel for the appellant as well as the learned counsel for the second respondent have not advanced any arguments on the questions of liability and negligence aspect. Therefore, the facts necessary for fixing the negligence as well as liability aspect



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have not been discussed in this Judgment.

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3.The learned counsel for the appellant/claimant would submit that as per the Discharge Summary viz., Ex.P.3, the claimant suffered fracture in right rib bones 4, 5 and 6 and the same has not been taken into consideration while fixing the compensation. It is the submission of the learned counsel that having regard to the fracture injury suffered by the victim, the tribunal should have granted compensation separately under the head disability by adopting multiplier method.

4.The learned counsel appearing for the second respondent / insurance company would submit that the appellant/claimant has not produced any evidence to establish the disability due to the injury suffered by him and hence, the tribunal was justified in not awarding any amount towards disability. The learned counsel further submitted that having regard to the date of accident (09.07.2000), the amount awarded by the tribunal under the head Pain and sufferings and Extra Nourishment are on the higher side. Though the appellant/claimant claimed that she suffered fracture injury in the right rib bones 4, 5 and 6 based on the discharge summary, she failed to produce the disability certificate issued



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by the Medical Board.

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5.It is seen from the records that the appellant/claimant has filed M.P.No.4162 of 2017 to mark the disability certificate issued by the doctor and the same has been allowed on 07.06.2018 subject to proof and relevancy. However, the appellant/claimant has not taken any steps to examine the doctor to prove the document and mark the same at the time of enquiry. Therefore, no disability certificate has been marked on the side of the appellant. When there is no evidence recorded, as to the extent of disability suffered by the appellant/claimant, the tribunal is justified in not awarding any amount under the head disability. As far as the pain and sufferings suffered by the appellant/claimant is concerned, the accident had occurred in the year 2000. Having regard to the year of the accident, this Court feels that the amount awarded towards pain and sufferings is very much reasonable. Likewise, a sum of Rs.10,000/- awarded towards Extra Nourishment also appears to be reasonable having regard to the date of accident. Various other heads like Transport to Hospital, Damages to clothes, Attender charges etc., requires no interference having regard to the year of the accident.



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6. In these circumstances, I do not find anything to enhance the quantum of compensation fixed by the Tribunal and accordingly, this Civil Miscellaneous Appeal is dismissed. No costs.

18.02.2025

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

The VI Judge,
Small Causes Court (Motor Accident Claims Tribunal),
Chennai



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S.SOUNTHAR, J.

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