



C.M.A.No.1562 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 24.02.2025

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

C.M.A.No.1562 of 2023

Valarmathi

... Appellant

Vs.

1.M. Thalamuthu

2.The New India Ass.Co.Ltd.,
Motor III Party Claims Office,
No.232, N.S.C. Bose Road,
Bombay Mutual Building, 6th Floor,
Chennai – 1.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 15.06.2022 made in M.C.O.P.No.3355 of 2018 on th file of the Motor Accident Claims Tribunal, (Special Sub Judge II, Court of Small Causes) Chennai.



C.M.A.No.1562 of 2023

WEB COPY

For Appellant : Mr. K. Sivakumar.

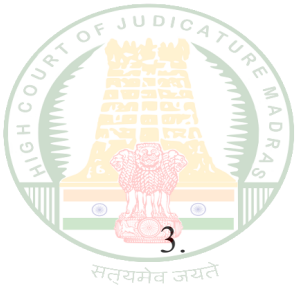
For Respondents : Ms. A. Salomi for R2
R1 – served – No appearance.

J U D G M E N T

(Delivered by Dr. A.D. Maria clete, J)

This Civil Miscellaneous Appeal has been filed challenging the award dated 15.06.2022 passed by the learned Tribunal in M.C.O.P. No. 3355 of 2018, primarily on the grounds of the inadequacy of the compensation awarded.

2. The appellant sustained grievous injuries in a motor accident that occurred on 26.05.2018. She suffered a traumatic amputation of her left leg up to the knee, along with multiple fractures and other severe injuries. The Tribunal, after considering the evidence, awarded a total compensation of Rs.23,38,300/-. However, the appellant contends that the award is grossly inadequate and does not reflect the proper assessment of her loss.



C.M.A.No.1562 of 2023

3.

The primary grievance of the appellant is that the Tribunal erroneously fixed her monthly notional income at Rs.11,000/- without considering judicial precedents and the prevailing economic conditions. Moreover, the Tribunal's assessment of functional disability at 70% is arbitrary and contrary to the medical evidence on record. The Disability Certificate issued by the Regional Medical Board clearly states that the appellant suffers from an 85% permanent disability.

4. It is well settled in *Andal v. Avinav Kannan* that a reasonable notional income should be considered where documentary proof is absent. Given the appellant's avocation as a tailor, the correct income should have been assessed at Rs.13,000/- per month. The Tribunal failed to recognize the impact of this disability on her ability to earn a livelihood and perform daily activities. The recent Supreme Court judgment in *Prakash Chand Sharma v. Rambabu Saini & Anr.* [2025 SCC Online SC 276] mandates that such disability be taken at its full value when computing loss of earning capacity. This Court, therefore, rectifies this error by adopting the correct disability percentage of 85% in its calculations.



5. Furthermore, the Tribunal applied the correct percentage multiplier of 17 as per the *Sarla Verma v. Delhi Transport Corporation* case. However, since the Tribunal undervalued the income and disability percentage, the final quantum of compensation was significantly lower than what should have been awarded. Under other heads, such as pain and suffering, loss of amenities, and attendant charges, the compensation awarded by the Tribunal is found to be reasonable, and no modification is required. However, the overall compensation is enhanced to ensure just and fair compensation in line with judicial precedents. Accordingly, the compensation is now revised as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1	Disability	Rs.2,199,120	Rs.3,155,880	Enhanced
2	Pain and sufferings	Rs.75,000	Rs.75,000	Confirmed
3	Transportation	Rs.4,000	Rs.4,000	Confirmed
4	Extra nourishment	Rs.10,000	Rs.10,000	Confirmed
5	Attender charges	Rs.20,100	Rs.20,100	Confirmed
6	Loss of amenities	Rs.30,000	Rs.30,000	Confirmed



S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
	Total	Rs.23,38,220 rounded off to Rs.23,38,300	Rs.32,94,980 rounded off to Rs.32,95,000	Enhanced

6. In the result, this Civil Miscellaneous Appeal is partly allowed, modifying the award of the Tribunal to the extent indicated above. The second respondent/insurance company is directed to deposit the award amount now determined by this Court, together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit along with interest and costs, less the amount already deposited if any within a period of two months from the date of receipt of a copy of this Judgment. On such deposit, the appellant/claimant is permitted to withdraw the award amount along with proportionate interest and costs, less the amount if any, already withdrawn. The appellant is directed to pay the necessary Court fee on the enhanced award amount, if any. No costs.



C.M.A.No.1562 of 2023

WEB COPY

(R.S.K., J) (A.D.M.C., J)
24.02.2025

ay

To

1.The Motor Accident Claims Tribunal,
Special Sub Court No.2,
Small Causes Court,
Chennai.



WEB COPY



C.M.A.No.1562 of 2023

R.SURESH KUMAR, J
and
DR. A.D. MARIA CLETE, J

ay

2.The Section Officer,
VR Section,
High Court of Madras,
Chennai.

C.M.A.No.1562 of 2023

24.02.2025



WEB COPY



C.M.A.No.1562 of 2023