



C.M.A.No.778 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 02.04.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.778 of 2025

and

C.M.P.No.6243 of 2025

Divisional Manager,
National Insurance Co. Ltd.,
D.O.No.110, J.N.Street,
Pondicherry-605001

... Appellant

vs.

1.M.S.Shanas

2.P.Sivamoorthy

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the Judgment and Decree dated 04.02.2022 made in M.C.O.P.No.2818 of 2015 on the file of the Motor Accident Claims Tribunal, Cuddalore, Special Sub Court, Cuddalore.

For Appellant : Mr.S.Vadivel

For R1 : M/s.Ramya V.Rao

For R2 : Notice Dispensed With



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J U D G M E N T

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The Civil Miscellaneous Appeal has been filed by the Insurance Company challenging the award passed by the Motor Accident Claims Tribunal, Special Sub Court, Cuddalore in M.C.O.P.No.2818 of 2015, dated 04.02.2022.

2. It is the case of the 1st respondent/claimant that she sustained injury in a road accident that had occurred on 24.06.2015. According to her, when she was driving her two wheeler bearing Registration No.TN-32-CZ-2694 near NLC Bus Stop from west to east by following the traffic rules, the car bearing No.TN-07-BE-7771 belonged to the 2nd respondent insured with the appellant came in a rash and negligent manner and dashed against her. As a result of the accident, she suffered grievous injuries and she was admitted in hospital for taking treatment from 25.06.2015 to 28.06.2015. Therefore, a claim petition was filed seeking compensation of Rs.10,00,000/-.

3. The 2nd respondent-owner of the offending vehicle remained *exparte* before the Tribunal and the claim was resisted only by the appellant/insurance company on the ground that accident had occurred only



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due to the negligence on the part of the vehicle of the 1st respondent/claimant.

4. Before the Tribunal, the 1st respondent/claimant was examined as PW.1 and on behalf of the claimant, 8 documents were marked as Exs.P1 to P8. On behalf of the Appellant/Insurance Company, the Sub-Inspector of Police, Neyveli was examined as RW.1 and one document was marked as Ex.R1. The Disability Certificate issued to the claimant 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 negligent driving of the car belonged to the 2nd respondent and insured with the appellant. The compensation payable to the claimant was quantified at Rs.7,95,314/-. Aggrieved by the quantum of compensation, the Insurer has come before this Court.

6. The learned counsel appearing for the appellant-insurance company would submit that the claimant has not suffered any functional



disability and hence, the Tribunal was not justified in adopting multiplier method. He further submitted that the amount awarded by the Tribunal under the head medical expenses is not sustainable, when separately a sum of Rs.24,500/- had been granted under the head Medical Bills. He also submitted that the amount awarded by the Tribunal under the other heads are excessive in nature.

7. The learned counsel appearing for the 1st respondent/claimant would submit that claimant suffered fracture in left wrist and therefore, the Tribunal was justified in adopting multiplier method. The learned counsel further submit that in the facts and circumstances of the case the amount awarded by the Tribunal is fair and reasonable.

8. It is seen from the Medical Records and Disability Certificate produced by the claimant, she suffered fracture in the wrist and disability was fixed by the Medical Board at 21%. Admittedly, the claimant was working as Revenue Inspector in the Tahsildar Office. Therefore, absolutely there is nothing on record to suggest that the fracture suffered by her resulted in functional disability. Therefore, the Tribunal was not justified in



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adopting multiplier method. Taking into consideration, the date of accident,

this Court is inclined to grant Rs.4,000/- per percentage of disability.

Therefore, the claimant is entitled to Rs.84,000/- under the head disability (Rs.4,000 x 21).

9. Admittedly, the claimant was employed in the Revenue Department as Revenue Inspector. There is no evidence available on record to show that she applied for leave on loss of pay and Government Servants are entitled to Medical Leave with Full Pay for the particular period. Therefore, the amount awarded by the Tribunal under the loss of income is set aside. Having regard to the nature of injury, a sum of Rs.30,000/- is granted under the head loss of amenities.

10. The amount of Rs.24,500/- awarded by the Tribunal under the head Medical Bills is based on documents before the Tribunal and hence, it is affirmed. Having awarded a sum of Rs.24,500/- based on medical bills produced by the claimant, the Tribunal ought not have awarded a further sum of Rs.50,000/- separately under the head medical expenses and hence, the same is set aside. The amount awarded by the Tribunal under various

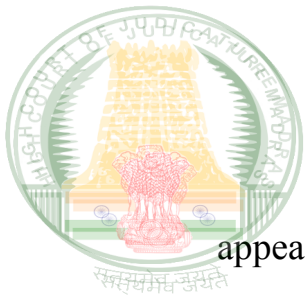


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other heads like pain and suffering, transportation, extra nourishment and attender charges etc., are reasonable and hence, affirmed. In view of the discussions made earlier, the award passed by the Tribunal is modified as follows:-

Sl. No.	Description	Compensation awarded by the Tribunal	Compensation awarded by this Court	Remarks
1.	Loss of Income	Rs.5,90,814/-	Rs.84,000/-	Reduced
2.	Pain and Suffering	Rs.50,000/-	Rs.50,000/-	Confirmed
3.	Medical Expenses	Rs.50,000/-	-	Not Granted
4.	Transportation	Rs.50,000/-	Rs.15,000/-	Confirmed
5.	Extra Nourishment	Rs.30,000/-	Rs.15,000/-	Confirmed
6.	Medical bills	Rs.24,500/-	Rs.24,500/-	Confirmed
7.	Attender charges	-	Rs.10,000/-	Granted
8.	Loss of Amenities	-	Rs.30,000/-	Granted
9.	Loss of Income	-	-	Not Granted
Total		Rs.7,95,314/-	Rs.2,28,500/-	Reduced

11. Accordingly, the compensation amount fixed by the Tribunal is reduced to Rs.2,28,500/- from Rs.7,95,314/-. The Appellant/Insurance Company is directed to deposit award amount of Rs.2,28,500/- together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation (excluding the delay period of 334 days in filing the



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appeal), to the credit of M.C.O.P.No.2818 of 2015 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Cuddalore, within a period of six weeks from the date of receipt of copy of this judgment. On such deposit, the 1st respondent/claimant is permitted to withdraw the award amount by making formal application before the Tribunal.

12. Accordingly, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, the connected civil miscellaneous petition is closed.

02.04.2025

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

To

- 1.The Motor Accident Claims Tribunal,
Special Sub Court, Cuddalore.
- 2.The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTHAR, J.

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