



C.M.A.No.1637 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

C.M.A.No.1637 of 2021

The Manager,
The United India Insurance Co.Ltd.,
74, Sree Lakshmi Complex,
Opp. To Taluk Office,
Mysore Trunk Road,
Sathiyamangalam Taluk,
Erode District.

... Appellant

Vs.

1. Devika
2. S.Babu
3. Ganeshkumar

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment passed in MCOP.No.149 of 2018 dated 17.03.2020 on the file of the Motor Accident Claims Tribunal, Sub-Ordinate Judge, Sathyamangalam.

For Appellant : M/s.J.Chandran

For Respondents : Mr.N.Manoharan for R1
No Appearance for R2



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Notice Dispensed with for
R3

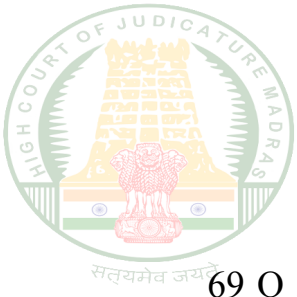
JUDGMENT

The above appeal is filed by the appellant / insurance company challenging the compensation awarded by the Motor Accident Claims Tribunal, Sub-Ordinate Judge, Sathyamangalam in the Judgment and decree dated 17.03.2020 in MCOP.No.149 of 2018

2. In view of the judgment being passed, notice to the third respondent is dispensed with.

3. Though the notice was served on the second respondent, no one appeared on behalf of the second respondent. Considering the period of pendency of the above appeal, the same is taken up for final hearing based on the materials available on record.

4. It is the case of the first respondent / claimant that, on 13.05.2018 at about 7.00 pm, when the claimant was riding a two wheeler bearing Regn.No.TN 36 X 4444, at that time, a car bearing Regn.No.Tn



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69 Q 5266 driven by its driver belonging to the third respondent insured with the appellant / insurance company, came in a rash and negligent manner and dashed the vehicle driven by the claimant, due to which, the claimant sustained grievous injuries all over her body. Claiming compensation in a sum of Rs.40,00,000/-, the claim petition has been filed by the claimant.

5. Before the Tribunal, the first respondent / claimant had examined P.W.1 and P.W.2 and marked Exs.P.1 to Ex.P.11. On the side of the appellant / insurance company, they have neither examined any witnesses nor marked any documents and Court document was marked as Ex.C1. After adjudication, the Tribunal awarded a sum of Rs.17,43,045/- as compensation to the claimant to be payable by the appellant / insurance company. Challenging the same, the appellant / insurance company has preferred the present appeal.

6. During the pendency of the above appeal, the claimant has marked Exs.P12 to P.28 before this Court, which are the medical expenses incurred by the claimant amounting to a sum of Rs.74,915/- for



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the period from 14.02.2022 to 31.03.2022.

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7. The learned counsel appearing for the appellant / insurance company submitted that though it is clear from the disability certificate issued by the Medical Board that the percentage of disability assessed by an independent doctor is 55% partial permanent disability which is not functional in nature and the same would not hamper the claimant from doing her day to day work. However, contrary to the judgment of the Hon'ble Apex Court in the case of *Raj Kumar Vs. Ajay Kumar & Anr.* reported in *2011 (1) SCC 343*, the Tribunal has fixed 55% functional disability under the head “partial permanent disability” by adopting multiplier method which is *per se* unsustainable. The compensation awarded under the others heads are also on the higher side and the same requires interference of this Court.

8. The learned counsel appearing for the first respondent / claimant submits that by considering all the relevant documents, the Tribunal has rightly awarded the adopted multiplier method and arrived at the compensation under the head partial permanent disability, which does not



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require any interference. Insofar as the compensation awarded under the other heads are concerned, they are on the lower side and the same requires interference of this Court. The learned counsel for the first respondent / claimant further submits that the claimant has marked Exs.P12 to P.28 during the pendency of the above appeal before this Court, which are the medical expenses incurred by the claimant amounting to a sum of Rs.74,915/- for the period from 14.02.2022 to 31.03.2022. Hence, this Court may award a sum of Rs.74,915/- under the head “medical expenses for the period from 14.02.2022 to 31.03.2022”.

9. The factum and manner of the accident is not disputed by the parties. It is discernible from Ex.C1, disability certificate issued by the Medical Board that the independent Doctor assessed the disability of the claimant/ first respondent at 55% partial permanent disability. On a perusal of the injuries sustained by the claimant, reveals that there is no functional disability and the same would not hamper the claimant from doing her day to day work. However, contrary to the judgment of the Hon'ble Apex Court in the case of *Raj Kumar Vs. Ajay Kumar & Anr.* reported in *2011 (1) SCC 343*, the Tribunal has fixed 55% under the



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head “Partial permanent disability” by adopting multiplier method which is *per se* unsustainable.

10. A perusal of the impugned award makes it clear that, the Tribunal has adopted multiplier method to arrive at the compensation. However, considering the nature of injuries suffered and the disability, which has a lasting impact on the life of the claimant, this Court is of the considered view that adoption of percentage method would be the proper course and, therefore, this Court is inclined to adopt percentage method to arrive at the compensation to be given to the claimant.

11. However, considering the age and nature of injury sustained by the claimant and the extent of the disability would not really hamper the claimant from discharging her day to day duties, this Court fixes Rs.7,000/- per percentage of disability. Therefore, the compensation awarded under the head “Partial permanent disability” is modified to Rs.3,85,000/- ($55\% * 7000 = 3,85,000/-$).

12. A sum of Rs.11,000/- has been granted under the head “loss of



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income during treatment period” which is on the lower side which is enhanced to a sum of Rs.46,000/- (Rs.23,000 x 2). A sum of Rs.10,000/- and Rs.5,000/- have been awarded under the heads “Extra nourishment”, and “attender charges” which are on the lower side and the same are enhanced to a sum of Rs.25,000/- and Rs.10,000/- respectively. A sum of Rs.1,00,000/- has been awarded under the head “Pain and suffering” which is on the higher side and the same is reduced to a sum of Rs.75,000/-. This Court finds that the compensation awarded under the other heads are just and reasonable and does not require any interference. It is seen that during the pendency of the above appeal, the claimant has marked Exs.P.12 to P.28 before this Court which are the medical expenses incurred by the claimant and trip sheets amounting to a sum of Rs.62,415/- and Rs.12,500/- respectively, in which this Court is inclined to grant a sum of Rs.62,415/- under the head “medical expenses for the period from 14.02.2022 and 24.03.2022”.

13. In view of the above, the compensation awarded by the Tribunal is modified as under :-



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S.No.	Description	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
1	Partial permanent disability	11,33,234/-	3,85,000/-
2	Loss of income during treatment period	11,000/-	46,000/-
3	Extra Nourishment	10,000/-	25,000/-
4	Attender charges	5,000/-	10,000/-
5	Medical bills as per Ex.P.9	4,51,311/-	4,51,311/-
6	Pain and suffering	1,00,000/-	75,000/-
7	Transportation	32,500/-	32,500/-
8	Medical expenses for the period from 14.02.2022 and 24.03.2022	-	62,415/-
	Total	17,43,045/-	10,87,226/-

14. Accordingly, this Civil Miscellaneous Appeal stands allowed in part and the impugned award passed by the Tribunal in MCOP.No.149 of 2018 is modified by deducting the compensation amount from **Rs.17,43,045/-** to **Rs.10,87,226/-**. The Appellant Insurance is directed to deposit the said amount to the credit of MCOP.No.149 of 2018 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being



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made, the Tribunal is directed to transfer the award amount directly to the bank account of the first respondent/claimant through RTGS within a period of two weeks thereafter. No costs.

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Index : Yes / No
Speaking order / Non-speaking order
Netrual Citation Case : Yes / No
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M.DHANDAPANI, J.

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- To
- 1.Motor Accident Claims Tribunal, Sub-Ordinate Judge, Sathyamangalam.
 - 2.The Section Officer, V.R.Section, High Court, Madras.

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