



C.M.A.No.475 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 04.04.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.475 of 2025

Prabavathi

... Appellant

VS.

1.C.Murugan

2.The Branch Manager,
IFFCO Tokio General Insurance Company Ltd,
Branch Office,
GSN Arcade II Floor,
New Vemala Kalyanamandapam,
Bye Pass Road,
Krishnagiri – 635 109.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to enhance the compensation awarded in the order dated 20.06.2023 made in M.C.O.P.No.665 of 2019 on the file of Motor Vehicle Accident Claims Tribunal, Special Subordinate Judge, Krishnagiri.

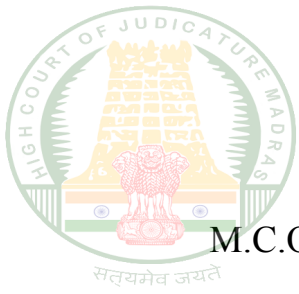
For Appellant : Mr.M.Mohamed Afridi

For R2 : Mr.K.Poomalai

For R1 : Notice Dispensed With

J U D G M E N T

Not satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, Special Subordinate Judge, Krishnagiri in



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M.C.O.P.No.665 of 2019, dated 20.06.2023, the injured/claimant has come

by way of this appeal.

2. It is the case of the claimant that she was travelling as a pillion rider in a Honda 5G Scooter bearing Registration No.TN-24-AP-6665 ridden by her relative. When the two wheeler in which the claimant ridden as a pillion rider came near Sankar Poultry Old Godown in Devarkmukkulam Ranganathar Kovil, the driver of the two wheeler lost control of her vehicle and dashed against a rock and another parked vehicle bearing Registration No.TN-24-Q 5818. Due to the accident, the claimant sustained grievous injuries and her right leg was amputated above the knee. It was stated by the claimant that she was engaged in agriculture and also vegetable vending and was earning a sum of Rs.15,000/- per month. Since the claimant's earning capacity got affected due to the amputation, a claim petition was filed seeking compensation of Rs.30,00,000/-.

3. The 1st respondent-owner of the vehicle remained *exparte* before the Tribunal and the claim was contested only by the insurer of the scooter on the ground that accident had not occurred due to the negligence on the part driver of the two wheeler.



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4. Before the Tribunal, the claimant was examined as PW.1 and on behalf of the claimant, 10 documents were marked as Exs.P1 to P10. On behalf of the 2nd respondent-Insurance Company, an Official of the RTO Office, Krishnagiri was examined as RW.1 and 2 documents were marked as Exs.X1 and X2. The Xerox Copy of Insurance Policy of the vehicle was marked as Ex.R1. The Medical Board Report was marked as Ex.C1.

5. The Tribunal on appreciation of evidence available on record, came to the conclusion that accident had occurred only due to the negligence on the part of the driver of two wheeler. The compensation payable to the claimant was quantified at Rs.20,50,000/-. Not satisfied with the quantum of compensation, the claimant has come by way of this appeal.

6. The learned counsel appearing for the appellant/claimant would submit that the notional income of Rs.60,000/- per annum fixed by the Tribunal is very much on lower side and therefore, the same requires enhancement.



WEB COPY 7. The learned counsel appearing for the 2nd respondent would submit that the claimant has not produced any documentary evidence to prove her income and hence, the Tribunal was justified in fixing Rs.60,000/- per annum as notional income of the injured/claimant.

8. It is seen from Ex.P8-Disability Certificate that the right leg of the claimant was amputated above knee level. The Medical Board, which assessed the claimant, fixed the disability at 75%. However, the Tribunal reduced the disability at 50%. It is the case of the claimant that she was engaged in agriculture and vegetable vending. After amputation of right leg above knee level, it is impossible for the claimant to engage herself in agricultural activities or in vegetable vending. Therefore, the earning capacity of the claimant is greatly affected. In these circumstances, the Tribunal is not justified in reducing the disability assessed by the Competent Medical Board. Therefore, this Court holds that the disability of the claimant shall be fixed at 75%.

9. The Tribunal fixed notional income at Rs.60,000/- per annum. In the claim petition, it was stated that claimant was an agriculturist and also



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engaged in vegetable vending. However, the claimant has not produced any documentary evidence to prove the avocation and income. Even if there is no evidence to prove the income, this Court, by taking into consideration the facts and circumstances of the case, can fix notional income. In the case on hand, the accident had occurred on 26.01.2019. Taking into consideration the date of accident and the prevailing cost of living, this Court is inclined to fix notional income of Rs.15,000/- per month.

10. As per Ex.P2-Accident Register and Ex.P3-Wound Certificate, the age of the injured claimant is mentioned as 26 years. Therefore, the applicable multiplier is 17. The claimant is entitled to 40% enhancement towards future prospects. Therefore, the amount under the head Disability is fixed at Rs.32,13,000/- (Rs.15,000 x 1.4 x 12 x 17 x 75/100). The Tribunal awarded medical expenses at Rs.10,91,000/- based on medical bills marked as Ex.P7, the same is confirmed. The amount awarded by the Tribunal under heads pain and suffering, transportation expenses, additional nourishment etc., are fair and reasonable and hence, they are confirmed. The Tribunal awarded the amount of Rs.1,00,000/- under the head loss of amenities, when the amputation injury suffered by the claimant is compensated by adopting



multiplier method, the claimant is only entitled to a nominal sum under the head loss of amenities. Therefore, the amount of Rs.1,00,000/- awarded under the head loss of amenities is reduced to Rs.40,000/-. The claimant has not produced any documentary evidence to prove future medical expenses, hence, the amount of Rs.17,000/- awarded under the said head is set aside. The amount of Rs.1,000/- under the head loss to the clothes is set aside.

11. 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.	Disability	Rs.7,56,000/-	Rs.32,13,000/-	Enhanced
2.	Medical Expenses	Rs.10,91,000/-	Rs.10,91,000/-	Confirmed
3.	Pain and Suffering	Rs.50,000/-	Rs.50,000/-	Confirmed
4.	Transportation Expenses	Rs.15,000/-	Rs.15,000/-	Confirmed
5.	Additional Nourishment	Rs.15,000/-	Rs.15,000/-	Confirmed
6.	Damages to the clothes	Rs.1,000/-	-	Set aside
7.	Attender Charges	Rs.5,000/-	Rs.5,000/-	Confirmed
8.	Loss of Amenities	Rs.1,00,000/-	Rs.40,000/-	Reduced
9.	Future Medical Expenses	Rs.17,000/-	-	Set Aside
Total		Rs.20,50,000/-	Rs.44,29,000/-	Enhanced by Rs.23,79,000/-



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WEB COPY 12. In all the claimant is entitled to Rs.44,29,000/-. Accordingly, the compensation amount payable to the claimant is enhanced to Rs.44,29,000/- from Rs.20,50,000/- The 2nd respondent/Insurance Company is directed to deposit the enhanced award amount of Rs.44,29,000/- together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, to the credit of M.C.O.P.No.665 of 2019 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge, Krishnagiri, within a period of six weeks from the date of receipt of copy of this judgment. On such deposit, the claimant is permitted to withdraw the award amount by making formal application before the Tribunal.

13. Accordingly, the Civil Miscellaneous Appeal is allowed. The claimant is directed to pay applicable additional court fee. It is made clear that the claimant is not entitled to claim interest for the delay period of 301 days in filing the appeal. No costs.

04.04.2025

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



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To

- 1.The Motor Vehicle Accident Claims Tribunal,
Special Subordinate Judge, Krishnagiri.
- 2.The Branch Manager,
IFFCO Tokio General Insurance Company Ltd,
Branch Office, GSN Arcade II Floor,
New Vemala Kalyanamandapam,
Bye Pass Road, Krishnagiri – 635 109.
- 3.The Section Officer,
VR Section, High Court, Madras.



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S.SOUNTHAR, J.

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