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CMA.No.965 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 28.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.965 of 2025

R.Indirani

... Appellant

Vs.

1. Sunil Kumar

2 . National Insurance Company Limited,
rep. by its Branch Manager,
Tirupati 517 501.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 to enhance the compensation awarded in MCOP No.99 of 201, dated 27.07.2023 on the file of the Sub Judge, Motor Accident Claims Tribunal, Karaikkal.

For appellant : Mr.K.Varadha Kamaraj

For Respondents : Mr.N.B.Surekha for third respondent

JUDGMENT

Not satisfied with the quantum of compensation awarded by the Tribunal, the injured/claimant has come before this court by filing the present appeal.



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2. It is the case of the appellant/claimant that on 06.11.2016, she was travelling as a pillion rider in a two wheeler driven by her son in Thirunallar- Ambagarathur Main road from east to west and while she was proceeding near Confed Petrol bunk, a Maruti Swift car belonging to the first respondent and insured with the second respondent came in a rash and negligent manner and dashed against the two wheeler of the injured. As a result of accident, the claimant sustained grievous injuries and hence, she filed claim petition before the Tribunal seeking compensation of Rs.8,00,000/-

3. The first respondent, remained exparte before the Tribunal and the claim petition was contested by the second respondent, insurer of the car on the ground that the claimant had not suffered any permanent disability. The insurer also raised a plea that the driver of the two wheeler did not possess valid driving licence at the time of accident.

4. The Tribunal, based on the evidence available on record, came to the conclusion that the accident had occurred only due to the rash and negligent driving of the car, insured with the second respondent



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and quantified the compensation payable to the claimant at Rs.1,40,348/-. Not satisfied with the quantum of compensation awarded by the Tribunal, the claimant has filed the present appeal.

5. Both the counsel for the appellant and the third respondent have not advanced any arguments on the questions of negligence and liability and therefore, the facts necessary for fixing negligence and liability have not been considered in the present appeal.

6. The learned counsel for the appellant/claimant would submit that the Tribunal awarded only a sum of Rs.5,000/- per percentage of disability and the same is very much on lower side. He further submits that the amount awarded under the heads pain and sufferings and loss of amenities are also very meager and hence the same need enhancement.

7. The learned counsel for the second respondent/insurer of the offending vehicle would submit that considering the facts and circumstances of the case, the amount awarded by the Tribunal is just and reasonable and the same does not warrant any interference by this court.



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8. Based on the discharge summaries marked as Ex.P4 and Ex.P5, the Tribunal noted that the claimant suffered the following injuries.

1. *Post traumatic LMN type of Bell's palsy*
2. *Superior public rami fracture*
3. *Sub arachnoid hemorrhage*

The medical Board, which examined the claimant, issued the disability certificate Ex.C1, assessing disability at 12%. It is mentioned in the disability certificate Ex.C1 that the claimant suffered partial disability. The Tribunal granted a sum of Rs.5,000/- per percentage of the disability and granted a sum of Rs.60,000/- towards future loss of earning capacity. The amount awarded by the Tribunal per percentage is in accordance with the decision of the Division Bench of this Court in CMA No.3334 of 2021, dated 15.06.2022 *in Future General India Insurance Company Limited Vs. Manivannan and two others* and hence, the same is confirmed.

9. Having regard to the fact that the claimant suffered " *Post traumatic LMN type of Bell's palsy, superior pubic rami fracture and*



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sub arachanoid hemorrhage", this court feels that the amount awarded by the Tribunal under the head pain and sufferings needs enhancement and hence, the same is enhanced to Rs.25,000/-.

10. The amount awarded by the Tribunal under various other heads are just and reasonable and hence, they are confirmed.

11. Accordingly, the revised compensation awarded by this Court is tabulated as under:

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Future loss of earnings	60,000	60,000	confirmed
2.	Pain and sufferings	15,000	25,000	enhanced
3.	Loss of amenities	15,000	15,000	confirmed
4.	Attender expenses	10,000	10,000	confirmed
5	Transport expenses	10,000	10,000	confirmed
6	Nutritious food	10,000	10,000	confirmed
7	Damage to the dress	1,000	1,000	confirmed
8	Medical bills	5,348	5,348	confirmed
9	Loss of income	14,000	14,000	confirmed
	Total	1,40,348	1,50,348	enhanced by Rs.10,000

12. With the above modifications, this Civil Miscellaneous



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Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,40,348- is hereby enhanced to **Rs.1,50,348/-** together with interest at 7.5% per annum from the date of claim petition till the date of deposit.

13. The **second respondent** is directed to deposit the compensation amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of **six weeks** from the date of receipt of a copy of this judgment. On such deposit being made, the claimant shall be permitted to withdraw the compensation amount along with interest and costs, less the amount if any, already withdrawn, by making formal application before the Tribunal.

There shall be no order as to costs.

28.03.2025

Index : Yes/No
Speaking order : Yes/No
Neutral citation : Yes/No
mst

To



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1. The Sub Judge,
Motor Accident Claims Tribunal,
Karaikkal.
2. The Section Officer,
V.R.Section, Madras High Court.



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S.SOUNTHAR, J.

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