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CMA.No.405 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :17.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.405 of 2025

Neela

... Appellant

Vs.

1. Nithyananthan
2. United India Insurance Company Limited
No.134, Greams Road
Chennai-600 006.

3. Chetan Kothari
4. National Insurance Company Limited
No.751, Anna Salai
Chennai 600 002

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to enhance the award passed by the Motor Accident Claims Tribunal, Chennai in the V Court of Small Causes, Chennai on 16.02.2023 in MCOP.No.5165 of 2015.

For appellant : Mr.K.Livingston
for Samanta and Ston

For respondents : Mr.S.Dhakshnamoorthy for R2
M/s.N.B.Sureka for R4
R1 & R3-notice dispensed with



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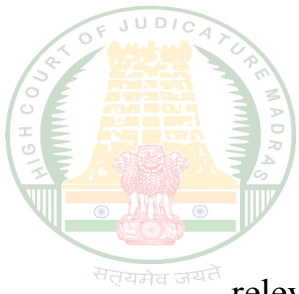
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JUDGMENT

Not satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, the injured claimant has come before this court by way of this appeal.

2. It is not in dispute that the appellant suffered an injury in a road accident that had taken place on 01.05.2015. As a result of which, the appellant suffered fracture in the left femur and the left leg. Both the learned counsel for the appellant as well as the 2nd and 4th respondents/ Insurance companies have not advanced any arguments on the questions of negligence as well as liability. Therefore, the facts necessary for deciding those questions are not discussed in this appeal.

3. The learned counsel for the Appellant submitted that the appellant suffered Grade-IIIB compound type C, Muller Supra Condylar fracture in the left femur and 5th Metacarpal in the left hand. He further submitted that the appellant was employed as a Tailor at the



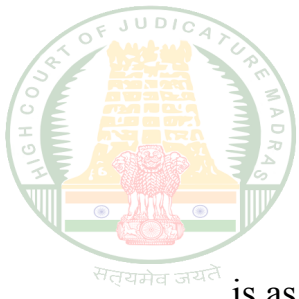
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relevant point of time and hence, taking into consideration the nature of the injury, the Tribunal should have applied multiplier method. The learned counsel for the Appellant further submitted that the various amount awarded by the Tribunal under the heads loss of income during treatment period, pain and suffering, attendant charges, extra nourishment are very much on the lower side.

4. The learned counsel for the Second Respondent/Insurance Company submitted that absolutely there is no evidence available on record to suggest that the nature of injury suffered by the appellant interfered with her avocation. Therefore, the Tribunal was justified in granting compensation by adopting percentage basis. The learned counsel further submitted that the Tribunal, having awarded Rs.30,000/- under the head 'pain and suffering', ought not have awarded another amount of Rs.30,000/- under the head 'mental agony'.

5. It is seen from the Exhibit P32, the appellant was inpatient in the hospital for nearly 31 days. It is claimed that the appellant was employed as Tailor. The nature of the fracture suffered by the appellant



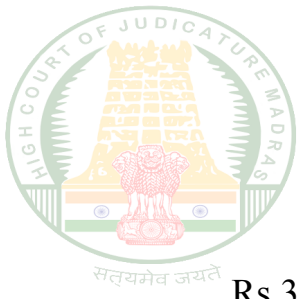
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is as follows:-
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*“Grade-IIIB compound type C, Muller Supra
Condylar fracture L femur, 5th Metacarpal # L hand”.*

6. In view of the compound fracture suffered by the appellant and the treatment undergone as inpatient for 31 days, this court feels that the claimant would have been kept away from employment at least for 6 months. The Tribunal fixed notional income of the appellant only at Rs.7,000/-. The appellant claimed that the income was Rs.10,000/-. Having regard to the date of accident, this Court feels that it would be appropriate to adopt the income claimed by the claimant as notional income. Therefore, the notional income of the appellant/claimant is fixed as Rs.10,000/-. Therefore, the amount of Rs. 21,000/- awarded under the head 'loss of income' is increased to Rs.60,000/-.

7. Taking into consideration that the appellant suffered compound fracture in the femur and also fracture in the left hand, this Court feels that the amount awarded under the head 'pain and suffering' shall be enhanced to Rs.40,000/-. The Tribunal, having awarded a sum of



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Rs.30,000/- under the head 'pain and suffering' ought not have awarded a further sum of Rs.30,000/- under the head 'mental agony'. Therefore, the said amount is set aside. Since the appellant produced documents to show that she had undergone treatment for 31 days in the hospital, an amount of Rs.9,300/- awarded by the Tribunal under the head 'Attendant charges' is increased to Rs.15,000/- .

8. The appellant has not produced any evidence to show that the injuries suffered by her interfered with her day-to-day activities or avocation. Hence, there is no case made out for application of multiplier method. Therefore, the percentage basis followed by the Tribunal is confirmed. As per Ex.C1, disability certificate issued by medical board, the appellant's disability is assessed at 31 %. Having regard to the date of accident, the Tribunal rightly awarded Rs.4000/- per percentage of disability.

9. In view of the discussions made earlier, the compensation awarded by the Tribunal is enhanced from Rs.2,79,300/- to Rs.3,04,000/-. The break-up is as follows :-

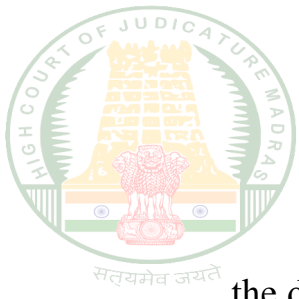
Sl.	Description	Amount	Amount	Award
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N o		awarded by Tribunal (Rs)	awarded by this Court (Rs)	confirmed or enhanced or granted
1.	Pain and Suffering	30,000/-	40,000/-	Enhanced
2.	Attender Charges	9,300/-	15,000/-	Enhanced
3.	Extra Nourishments	20,000/-	20,000/-	Confirmed
4.	Transportation Expenses	10,000/-	10,000/-	Confirmed
5.	Disability	1,28,000/-	1,28,000/-	Confirmed
6.	Loss of Income	21,000/-	60,000/-	Enhanced
7.	Medical Bills	Nil	Nil	
8	Damage to clothes	1000/-	1000/-	Confirmed
9.	Loss of Amenities	30,000/-	30,000/-	Confirmed
10	Mental agony	30,000/-	Nil	Set aside
	Total	2,79,300/-	3,04,000/-	Enhanced by Rs.24,700/-

14. With the above modifications, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,79,300/- is hereby enhanced to Rs.3,04,000/-. In view of the order passed in CMP.No.20398 of 2024, the appellant/claimant is not entitled to claim any interest for the delay period (293 days). The appellant is entitled to interest at the rate of 7.5% per annum excluding



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the delay period (293 days) from the date of filing of the claim petition till the date of realization. The 2nd and 4th respondents/Insurance Companies are directed to deposit the enhanced sum along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of copy of this judgment in the same ratio [70:30] as held by Tribunal. On deposit of the enhanced sum, the appellant/claimant is entitled to withdraw the same along with interest and costs, less the amount if any, already withdrawn by filing a formal application before the Tribunal. No costs.

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Index:Yes/No
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S.SOUNTHAR, J.

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To

1. Motor Accident Claims Tribunal,
V Court of Small Causes, Chennai
2. The Section Officer,
VR Section, High Court, Madras.

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