



CMA.No.2925 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 14.03.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

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The New India Assurance Company Limited,
Sethukrishna Trade Centre,
133/31-A, II Floor,
Trichy Main Road, Near Raja Sabari Theatre,
Gugai, Salem – 636 006.
Now at Third party Claims Hub,
No.232, NSC Bose Road, Chennai – 600 001.

... Appellant

Vs.

1.Mahalakshmi
2.P.Valarmathi

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the order dated 27.06.2022 in MCOP.No.1070 of 2019 passed by the learned Chief Judicial Magistrate, Motor Accident Claims Tribunal Authority, Chief Judicial Magistrate Court, Salem.

For Appellant :Mr.R.Rajesh

For Respondents :Mr.C.Kulanthaivel Caveator
for R1
No appearance for R2



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J U D G M E N T

Aggrieved by the quantum of compensation awarded by the Tribunal, the Insurance Company has come before this Court by way of this appeal.

2. It is not in dispute that the first respondent/claimant suffered grievous injuries in a road accident that had taken place on 02.09.2018. Both the learned counsel appearing for the appellant as well as first respondent claimant, have not advanced any arguments on the question of negligence and liability. Therefore, necessary facts for considering those questions are not discussed in this judgment.

3. The learned counsel appearing for the appellant would submit that as per Ex.C1-disability certificate issued by Medical Board the claimant suffered only 25% disability and she was in hospital only four days, as per the discharge summary marked as Ex.P5. In these circumstances, the Tribunal awarded a sum of Rs.1,00,000/- under the head



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pain and suffering, Rs.75,000/- under the head loss of convenience are very much higher side. The learned counsel further submitted that the amount awarded by the Tribunal under the head temporary loss of income is also on the higher side.

4. The learned counsel appearing for the first respondent/claimant would submit that the claimant suffered fracture in right elbow and suffered fracture which interferes with her avocation, therefore, the Tribunal should have taken multiplier method and awarded higher compensation.

5. A perusal of Ex.C1-disability certificate issued by medical board and Ex.P5-discharge certificate would indicate that the claimant suffered compound comminuted Ole cranon fracture in her right elbow and she underwent surgery and internal fixation. The medical board examined the claimant and fixed the disability at 25%. In the claim petition filed by the claimant, it was stated that she was engaged in tuition and Handicraft work and Tailoring work. Further, it was stated in the claim petition that she is earning Rs.20,000/- per month.



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6. A perusal of Ex.P5-discharge certificate would establish that

the claimant was hospitalised only for four days. The medical board has not noted in the disability certificate issued by it that the disability suffered by the claimant would interfere with the avocation. It only mentioned difficulty in combing and lifting the heavy articles. In these circumstances, the Tribunal rightly calculated on percentage basis, the accident had occurred in the year 2018, therefore, it would be appropriate to award Rs.7,000/- per percentage of disability. Hence, the claimant is entitled to Rs.1,75,000/- (Rs.7,000/-x25%) under the head disability.

7. Taking into consideration, the nature of injuries suffered by her and the period of hospitalisation, the amount of Rs.1,00,000/- under the head pain and suffering is very much on the higher side and the same is reduced Rs.50,000/-. Likewise, Rs.75,000/- awarded by the Tribunal under the head loss of convenience is reduced to Rs.50,000/-. The Tribunal awarded Rs.73,700/- towards medical expenses and the same is marked as Ex.P8 and the same is confirmed. The Tribunal awarded Rs.7,000/- (each) under the head attender charges, transportation and extra nourishment. The said amount is increased to Rs.10,000/- (each).



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8. Even though there is no evidence to prove the avocation and

income of the claimant, this Court feels notional income can be fixed at Rs.16,500/- per month. Taking into account the date of accident, the claimant is entitled to loss of income for atleast six months period. Therefore, the amount of Rs.1,50,000/- awarded by the Tribunal under the head temporary loss of income is reduced to Rs.99,000/- (Rs.16,500x6).

In view of the discussions, the award passed by the Tribunal is modified as follows:

Sl. No.	Description	Compensation awarded by the Tribunal	Compensation awarded by this Court
1.	Pain and Sufferings	Rs.1,00,000	Rs.50,000/-
2.	Loss of convenience	Rs.75,000/-	Rs.50,000/-
3.	Medical expenses as per Ex.P8	Rs.73,700/-	Rs.73,700/-
4.	Attender Charges	Rs.7,000/-	Rs.10,000/-
5.	Disability as per Ex.C1	Rs.1,25,000/-	Rs.1,75,000/-
6.	Temporary loss of income	Rs.1,50,000/-	Rs.99,000/-
7.	Transport to Hospital	Rs.7,000/-	Rs.10,000/-
8.	Extra nourishment	Rs.7,000/-	Rs.10,000/-
	Total	Rs.5,44,700/-	Rs.4,77,700/-



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9. In view of the discussion made earlier, the total compensation awarded by the Tribunal is reduced to Rs.4,77,700/- as against Rs.5,44,700/- as ordered by the Tribunal. The Tribunal granted 9% interest on the compensation amount from the date of filing of the petition. This Court is inclined to reduce the interest at the rate of 7.5% per annum. The appellant is directed to deposit the balance award amount together with interest to the credit of MCOP.No.1070 of 2019, on the file of the Motor Accident Claims Tribunal Authority, Chief Judicial Magistrate Court, Salem within a period of six weeks. The first respondent/claimant is permitted to withdraw the amount and the finding of the Tribunal with regard to the pay and recovery is confirmed.

10. With the above direction, the Civil Miscellaneous Appeal is partly allowed. No costs.

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

1.The Motor Accident Claims Tribunal Authority,
Chief Judicial Magistrate Court, Salem.

2.The Section Officer
VR Section, High Court, Madras.



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S.SOUNTHAR, J.

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