



C.M.A.No.3685 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 28.02.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.3685 of 2021

A.Noorjahan

... Appellant

VS.

1.A.Abdulla

2.New India Assurance Company Limited,
No.232, NSC Bose Road,
L.I.C., Building, 6th Floor,
Chennai – 600 001.

... Respondents

*(since R1 remained exparte before the Tribunal his
presence may be dispensed with)*

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to enhance and to set aside the award dated 06.03.2021 and made in M.A.C.T.O.P.No.430 of 2017 on the file of the Motor Accident Claims Tribunal, Court in the III Court of Small Causes, Chennai.

For Appellant : M/s.F.Terry Chella Raja

For R2 : M/s.Rathna Thara

For R1 : Notice Dispensed With

J U D G M E N T



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Not satisfied with the quantum of compensation fixed by the Motor

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Accident Claims Tribunal, III Court of Small Causes, Chennai in M.C.O.P.No.430 of 2017, dated 06.03.2021, the injured/claimant has come by way of this appeal.

2. It is not in dispute that the appellant/claimant suffered grievous injuries in a road accident that had taken place on 06.11.2016. It is the case of the claimant that she suffered fracture in proximal tibia bone in right and left leg. The claimant laid a original petition seeking compensation of Rs.12,00,000/-.

3. Before the Tribunal, the appellant/claimant was examined as PW.1. On the side of the appellant/claimant, 9 documents were marked as Exs.P1 to P9. On the side of the 2nd respondent/Insurance Company, Mr.Asokan, Inspector of Police, Guduvancherry Police Station was examined as RW.1 and one document was marked as Ex.R1 on behalf of 2nd respondent. The Disability Certificate of the appellant/claimant issued by the Medical Board was marked as Ex.C1.

4. The Tribunal on appreciation of evidence available on record,



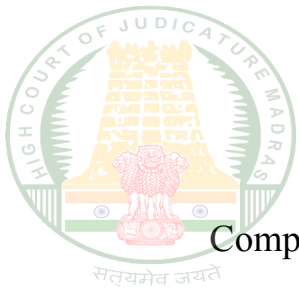
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awarded a compensation of Rs.2,56,800/- in favour of the claimant. Not satisfied with the quantum of compensation fixed by the Tribunal, the claimant has come before this Court.

5. Both the learned counsel appearing for the appellant/claimant as well as learned counsel appearing for the 2nd respondent/Insurance Company have not advanced any arguments on the questions of negligence and liability. Therefore, facts necessary for deciding those questions are not discussed in this judgment.

6. The learned counsel appearing for the appellant/claimant would submit that the accident had taken place in the year 2016, however, the Tribunal awarded a sum of Rs.3,000/- per percentage of disability and the same is very much on lower side. The learned counsel further submitted that the amount of Rs.9,000/- per month fixed by the Tribunal as notional income is also on lower side and hence, amount awarded under the head of loss of income during treatment period needs enhancement.

7. The learned counsel appearing for the 2nd respondent/Insurance



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Company would submit that having regard to the nature of injuries suffered by the claimant and date of accident, the amount of Rs.3,000/- fixed by the Tribunal is very much reasonable. The learned counsel further submits that the claimant has not produced any document to prove her income and therefore, the Tribunal was justified in fixing notional income of the claimant at Rs.9,000/- per month and awarding a sum of Rs.18,000/- for two months of treatment period.

8. It is seen from the Discharge Summary marked as Ex.P2 and Disability Certificate marked as Ex.C1, the claimant suffered fracture in proximal tibia of right leg, she was in hospital for 4 days. Taking into consideration, the nature of injuries suffered by the claimant, the Tribunal was justified in granting loss of income for a period of two months. The accident had occurred in the year 2016 and therefore, the notional income shall be fixed at Rs.15,000/-. In that case, the claimant is entitled to Rs.30,000/- under head loss of income during treatment period.

9. Having regard to the date of accident and cost of living, this Court



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feels that the amount of Rs.3,000/- fixed by the Tribunal per percentage of disability needs to be enhanced to Rs.5,000/- per percentage. Therefore, the claimant is entitled to Rs.65,000/- under the head disability (13 x Rs.5,000/-). The amount of Rs.1,000/- awarded by the Tribunal under the head loss to the clothes is set aside. The award passed by the Tribunal under various other heads like pain and sufferings, extra nourishment and transportation charges, medical bills, loss of amenities and attender charges are reasonable and hence, they are affirmed by this Court. Accordingly, 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.	Pain and Sufferings	Rs.30,000/-	Rs.30,000/-	Confirmed
2.	Extra Nourishment and Transportation Charges	Rs.30,000/-	Rs.30,000/-	Confirmed
3.	Disability 13%	Rs.39,000/-	Rs.65,000/-	Enhanced
4.	Medical Bills	Rs.1,07,167/-	Rs.1,07,167/-	Confirmed
5.	Loss of Amenities	Rs.30,000/-	Rs.30,000/-	Confirmed
6.	Damages to Clothes	Rs.1,000/-	-	Set aside
7.	Attender Charges	Rs.1,600/-	Rs.1,600/-	Confirmed
8.	Loss of Income for 2 months	Rs.18,000/-	Rs.30,000/-	Enhanced
	Total	Rs.2,56,767/- (Rounded off Rs.2,56,800/-)	Rs.2,93,767/-	Enhanced by Rs.36,967/-

10. In view of the discussions made earlier, the compensation awarded by the Tribunal is enhanced to Rs.2,93,767/- from Rs.2,56,767/- (Rounded



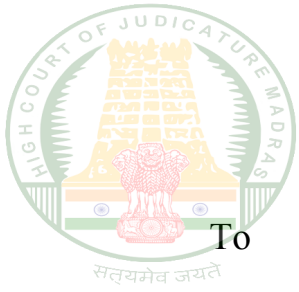
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off to Rs.2,56,800/-). The 2nd respondent/Insurance Company is directed to deposit the enhanced award amount of Rs.2,93,767/- together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, after deducting the amount already deposited, if any, to the credit of M.C.O.P.No.430 of 2017 on the file of the Motor Accident Claims Tribunal (III Court of Small Causes), Chennai, within a period of six weeks from the date of receipt of copy of this judgment. On such deposit, the appellant/claimant is entitled to withdraw the award amount by making formal application.

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

28.02.2025

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



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To

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1.The Motor Accident Claims Tribunal,
III Court of Small Causes, Chennai.

2.New India Assurance Company Limited,
No.232, NSC Bose Road,
L.I.C., Building, 6th Floor,
Chennai – 600 001.

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



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S.SOUNTHAR, J.

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