IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.430 of 2023

Chinnaponnu ... Appellant

vs.

1.Sekar

2.Boopathi

3.The United India Insurance Co., Ltd.,
No.256-E, Thirukumaran Towers, 1st Floor,
Kakapalayam Main Road, Mottur,
Elampillai, Salem – 636 102.

4.Poomalai ... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to allow the above Civil Miscellaneous Appeal and enhance the award in the order dated 26.11.2021 made in M.A.C.T.O.P.No.2093 of 2019 on the file of the Motor Accident Claims Tribunal/Special Subordinate Judge No.II, Salem.

For Appellant	: Mr.T.S.Arthanareeswaran
For R1 and R2	: Mr.R.Jayaprakash
For R3	: Mr.P.Sankaranarayanan
For R4	: No Appearance

JUDGMENT

Not satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal/Special Subordinate Judge No.II, Salem in M.C.O.P.No.2093 of 2019, dated 26.11.2021, the injured/claimant has come before this Court.

2. According to the appellant/claimant, she suffered injury in a road accident that had occurred on 16.06.2019. According to her, she was travelling in an Auto in Chennai-Salem National Highway on 16.06.2019. When she came near Hindili Mill Gate, Chinnasalem, a Tavera Car bearing Registration No.TN 30 P 9663 belonged to the 2nd respondent insured with the 3rd respondent was driven by its driver-1st respondent in a rash and negligent manner and dashed against the Auto from behind. Therefore, the claimant suffered fracture injuries in her right hand and left leg. Therefore, the claim petition was filed seeking compensation of Rs.15,00,000/-.

3. The respondents 1 and 2 remained *exparte* before the Tribunal and the claim petition was opposed by the insurer of the Tavera Car by filing counter. According to the 3rd respondent, the car was driven by its driver slowly and steadily by following traffic rules and the accident had occurred

only due to the rash and negligent driving of the Auto by its driver.

4. Before the Tribunal, appellant/claimant was examined as PW.1 and 15 documents were marked as Exs.P1 to P15 on behalf of the claimant. On behalf of the 2nd respondent, no witness was examined and an enquiry report of the 3rd respondent's side was marked as Ex.R1. On behalf of the 3rd respondent, one Boopathi was examined as RW.1. The Disability Certificate issued by the Medical Board was marked as Ex.C1.

5. The Tribunal based on the evidence available on record, came to the conclusion that accident had occurred only due to the rash and negligent driving of the Tavera Car by 1st respondent and hence, the respondents 2 and 3 were jointly and severally liable to pay compensation. The compensation payable to the claimant was quantified at Rs.4,75,638/-. Not satisfied with the quantum of compensation, the injured/claimant has come by way of this appeal.

6. The learned counsel appearing for the appellant/claimant as well as the learned counsel appearing for the 3rd respondent-Insurance Company have not advanced any arguments on the questions of negligence and liability. Therefore, facts necessary to decide those questions are not discussed in this judgment.

7. The learned counsel appearing for the appellant/claimant would submit that the Tribunal granted only Rs.5,000/- per percentage of disability for the accident that had occurred in the year 2019 and hence, it requires enhancement.

8. The learned counsel appearing for the 3rd respondent/Insurance Company would submit that in the facts and circumstances of the case, the amount awarded by the Tribunal under the head permanent disability is fair and reasonable.

9. A perusal of Ex.P4-Discharge Summary would indicate that the claimant suffered fracture in her right humerus bone and she was treated with internal fixation. Likewise, she also suffered fracture in her left ankle and the same was treated with internal fixation and Orif with 'K' wire.For the chest injury suffered by her, she was treated conservatively. She was in hospital for 8 days from 17.06.2019 to 24.06.2019. The Medical Board, which examined the claimant fixed disability at 35% and issued Ex.C1-Disability Certificate to that effect. The Tribunal after coming to the conclusion that there was no functional disability for the claimant, proceeded to award compensation on percentage basis. The Tribunal

granted only Rs.5,000/- per percentage of disability. The accident had occurred in the year 2019. The Division Bench of this Court in ***Future General India Insurance Company Limited vs. Manivannan and others*** (C.M.A.No.3334 of 2021, dated 15.06.2022) granted Rs.7,000/- per percentage of disability for the accident that had occurred in the year 2017. Therefore, taking into consideration the date of accident, this Court is inclined to grant Rs.8,000/- per percentage of disability. Accordingly, the claimant is entitled to Rs.2,80,000/- under the head permanent disability (35% x 8000).

10. Taking into consideration the period of hospitalisation and nature of injury, the amount awarded by the Tribunal under the heads pain and suffering, loss of amenities, transportation expenses, nutritional expenses, loss of income during treatment period and attender charges etc., appear to be reasonable.

11. The Tribunal awarded Rs.1,49,638/- towards medical expenses is based on Exs.P5 and P6-Medical Bills produced by the claimant. Therefore, the same is affirmed.

12. 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.	Permanent Disability	Rs.1,75,000/-	Rs.2,80,000/-	**Enhanced**
2.	Pain and Suffering	Rs.35,000/-	Rs.35,000/-	**Confirmed**
3.	Loss of amenities	Rs.35,000/-	Rs.35,000/-	**Confirmed**
4.	Medical Expenses	Rs.1,49,638/-	Rs.1,49,638/-	**Confirmed**
5.	Loss of Income during treatment period	Rs.30,000/-	Rs.30,000	**Confirmed**
6.	Transportation Expenses	Rs.20,000/-	Rs.20,000/-	**Confirmed**
7.	Nutritional Expenses	Rs.20,000/-	Rs.20,000/-	**Confirmed**
8.	Attender Charges	Rs.10,000/-	Rs.10,000/-	**Confirmed**
9.	Damages to the clothes	Rs.1,000/-	Rs.1,000/-	**Confirmed**
Total		**Rs.4,75,638/-**	**Rs.5,80,638/-**	**Enhanced by Rs.1,05,000/-**

13. Therefore, the total compensation payable to the claimant is enhanced to Rs.5,80,638/- from Rs.4,75,638/-. The 3rd Respondent/Insurance Company is directed to deposit the enhanced award amount of Rs.5,80,638/- together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation (excluding the delay period of 69 days as per order in CMP.No.19415 of 2022) to the credit of M.C.O.P.No.2093 of 2019 on the file of the Motor Accident Claims

Tribunal/Special Subordinate Judge No.II, Salem, 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.

14. With the above directions, the Civil Miscellaneous Appeal is partly allowed. No costs.

30.04.2025

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

To

1.The Motor Accident Claims Tribunal/
Special Subordinate Judge No.II, Salem.

2.The United India Insurance Co., Ltd.,
No.256-E, Thirukumaran Towers, 1st Floor,
Kakapalayam Main Road, Mottur,
Elampillai, Salem – 636 102.

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

S.SOUNTHAR, J.

dm

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