



CMA.No.760 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :09.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.760 of 2025

N.Noorjahan

... Appellant

Vs.

1.Anila Rachel
(Set exparte before the Trial Court)

2.The IFFCO Tokio General Insurance Co. Ltd
Motor Third Party Claims Office,
No.128, Habbibullah Road, IFFCO Bhavan,
T.Nagar, Chennai – 600 017

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to set aside the decree and judgement dated 31.10.2022 passed in MCOP No.6391 of 2018 by the II Motor Accident Claims Tribunal at Chennai, II Small Causes Court, Chennai and enhance the award from amount of Rs.3,89,000/- to Rs.9,00,000/- (Rupees Nine Lakhs Only) as restricted prayed before this Hon'ble Court and direct the 2nd respondent to pay the award amount along with 1st respondent jointly.

For Appellant : M/s.T.G.Ravichandran

For Respondents : Mr.J.Michael Visuvasam for R2
R1-Notice Dispensed with



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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. According to the claimant, on 20.07.2018, she was walking carefully in Thiruvottriyur Market lane from East to West direction. At that point of time, a motor car owned by the first respondent and insured with the second respondent, came in a rash and negligent manner and hit the claimant. Due to the said accident, the claimant suffered grievous injuries and hence, the claim petition was filed seeking compensation of Rs.13,25,000/-.

3. The first respondent, owner of the offending vehicle, remained exparte before the tribunal and the claim petition was resisted by the insurer of the offending vehicle/ second respondent herein by denying the manner of accident as described in the claim petition. It was also stated that the accident had occurred due to the negligence on the part of the claimant.



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4. The Tribunal, based on the evidence available on record, came to the conclusion that the accident had occurred only due to the negligence on the part of the driver of the vehicle belonged to the first respondent and insured with the second respondent. The compensation payable to the claimant was quantified at Rs. 3,88,932/-. Aggrieved by the quantum, the claimant has come before this court.

5. The learner counsel for the appellant submitted that the injury suffered by the claimant interfered with the avocation of the claimant as Tailor/Homemaker. Therefore, the Tribunal should have adopted multiplier method. He also submitted that the amount awarded by the Tribunal under the heads pain and suffering, loss of income during treatment period and loss of amenities are on lower side.

6. The learned counsel for the 2nd Respondent/ Insurance Company submitted that in the absence of any evidence to show that the claimant suffered functional disability, the Tribunal rightly granted compensation



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on percentage basis. The learned counsel further submitted that having regard to the nature of injury suffered by the claimant, the compensation awarded by the Tribunal is fair and reasonable.

7. It is not in dispute that due to the accident, the claimant suffered a fracture in 2nd proximal Phalanx and fracture in 2nd, 3rd, 4th and 5th metatarsal head bones. It was stated by the claimant in the claim petition that due to the accident, the claimant was disabled from continuing her work as Tailor/Homemaker.

8. In order to assess the disability suffered by the claimant, she was referred to medical board and the disability certificate issued by the medical board was marked as Exhibit C1. A perusal of the same would indicate that the competent medical board assessed the disability suffered by the claimant at 12%. However, there is no evidence available on record to show that the injury suffered by the claimant resulted in functional disability. Therefore, the Tribunal was justified in granting compensation on percentage basis.

9. The accident had occurred in the year 2018. Having regard to



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the date of accident, the amount of Rs.5000/- awarded by the Tribunal per percentage of the disability is on lower side and the same is enhanced to Rs.7000/- per percentage of the disability. Therefore, the claimant is entitled to Rs.84,000/- under the head disability (Rs.7000 x 12%).

10. The injury suffered by the claimant would have kept her out of action for at least three months. Therefore, this Court is inclined to grant Rs. 45,000/- under the head loss of income during treatment period (Rs.15,000 x 3). Having regard to the nature of injuries suffered by the claimant and the resultant inconvenience, the amount awarded by the tribunal under the heads pain and suffering and loss of amenities are increased to Rs.30,000/- each. The amount awarded by the tribunal under the head medical expenses is based on the evidence and the same is confirmed. The amount awarded by the tribunal under the heads attendant charges, transportation expenses, extra nourishment are reasonable. Hence, they are affirmed.

11. In view of the discussions made earlier, the compensation



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Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Disability	60,000/-	84,000/-	Enhanced
2.	Pain and Suffering	15,000/-	30,000/-	Enhanced
3.	Loss of amenities	15,000/-	30,000/-	Enhanced
4.	Nutritional expenses	10,000/-	10,000/-	Confirmed
5.	Transport expenses	10,000/-	10,000/-	Confirmed
6.	Medical expenses	2,62,932/-	2,62,932/-	Confirmed
7.	Attender charges	10,000/-	10,000/-	Confirmed
8.	Loss of income	6,000/-	45,000/-	Enhanced
	Total	3,88,932/-	4,81,932/-	Enhanced by Rs.93,000/-

12. With the above modifications, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.3,88,932/- is enhanced to Rs.4,81,932/-.The appellant is entitled to interest at the rate of 7.5% per annum from the date of filing of the claim petition till the date of realization. The second respondent/Insurance



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company is directed to deposit the enhanced award amount before the Tribunal along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of copy of this Judgment. The appellant/claimant is permitted to withdraw the same along with interests and costs, less the amount if any, already withdrawn by filing a formal application before the Tribunal. No costs.

09.04.2025

(1/2)

Index:Yes/No
Internet:Yes/No
nr

To

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



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S.SOUNTHAR, J.

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