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CMA No. 2916 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-07-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 2916 of 2023

Erudhayamary

Appellant

Vs

1. Ms. Janaki Call Taxi

2.United India Insurance Company Ltd,
Motor III Party Claims Office, Shilling
Building, No.134, Greams Road,
Chennai 6.

Respondent

PRAYER:- Civil Miscellaneous Appeal filed under Sec.173 of Motor Vehicles Act, praying to enhance the Compensation amount made in Judgment and Decree dated on 22.6.2023 made in MCOP.No. 3990 of 2016 on the file of the Motor Accidents Claims Tribunal, IV Court of Small Causes, Chennai.

For Appellant: Mr. J. Mahalingam

For Respondents: Mr.P.Sankaranarayanan For R2



R1 - Exparte

JUDGMENT

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The petitioner not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP No.3990 of 2016, dated 23.06.2023 has preferred this appeal seeking for enhancement of compensation.

2.The case of the petitioner is that on 27.04.2016 at about 03.30 hours, when the petitioner was standing at E.C.R. opposite to Labon Chocolate Family Restaurant, at that time, the driver of a car bearing Regn. No. TN-09 CB-3345 driven it in a rash and negligent manner, dashed on the petitioner and caused an accident. Due to which, the petitioner sustained injuries, for which she underwent treatment in the hospital. Under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation of Rs.20,00,000/-.

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the



accident had taken place only due to the rash and negligent driving on the part of the rider of the 1st respondent. Having come to such a conclusion, the

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Tribunal fixed the total compensation payable at Rs.2,21,200/- under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Disability	1,00,000
2.	Medical expenses	nil
3.	Pain and suffering and mental agony	40,000
4.	Transportation expenses	10,000
5.	Nutrition expenses	15,000
6.	Damages to cloths	1,000
7.	Attender charges	15,200
8.	Loss of amenities	40,000
	Total	2,21,200

4. The above compensation was directed to be paid with interest at the rate of 7.5% per annum.



5. The petitioner not being satisfied with the quantum of compensation awarded by the Tribunal has filed the present appeal before this Court seeking for enhancement of compensation.

6. The learned counsel for appellant would submit that she sustained degloving injury on the scalp, for which she took treatment in hospital for more than 38 days and incurred huge expenses for the same, but it was not considered by the tribunal. He would submit that she was a flower vendor and the accident was happened in the year 2016. But, the tribunal has not awarded compensation towards loss of income. Hence, he prayed to enhance the compensation.

7. The learned counsel for 2nd respondent would submit that the tribunal has rightly awarded compensation to the petitioner, which needs no interference of this court.

8. Heard and considered rival submissions made by both learned counsel for appellant as well as 2nd respondent and perused materials available on record.



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9. Considering both side submissions, the fact reveals that admittedly, she was doing flower vending business at the time of accident happened in the year 2016, but there is no compensation awarded towards loss of income. Therefore, on considering the cost of living at that time, this Court is inclined to fix a sum of Rs.8000/- towards notional income. So, the notional income was fixed for six months. On considering the injuries as well as treatment period, the learned counsel for appellant argues that due to the injuries sustained, she was not able to move outside and nearly about three months, she was not able to do her business. Hence, this court is inclined to fix three months for loss of income. The compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court.

10. In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:



S.No	Compensation awarded under the head	Amount awarded by the tribunal (in Rs.)	Amount (in Rs.)	Amount confirmed or granted or enhanced
1.	Disability	1,00,000	1,00,000	confirmed
2.	Medical expenses	nil	nil	confirmed
3.	Pain and sufferings and mental agony	40,000	40,000	confirmed
4.	Transportation expenses	10,000	10,000	confirmed
5.	Nutrition expenses	15,000	15,000	confirmed
6.	Damages to cloths	1,000	1,000	confirmed
7.	Attender charges	15,200	15,200	confirmed
8.	Loss of amenities	40,000	40,000	confirmed
9.	Loss of income (Rs.8000/- x 3 months = 24000)		24,000	granted
	Total	2,21,200	2,45,200	

11.The compensation awarded by the tribunal at Rs.2,21,200/- is enhanced to Rs.2,45,200/-. The second respondent insurance company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of eight weeks from the date of receipt of copy of this judgment. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimants. The other directions



issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

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12. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

07-07-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

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



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T.V.THAMILSELVI J.

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