



CMA.No.330 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 04.03.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA.No.330 of 2025

Chitra

... Appellant

Vs.

1.Shanmugam
2.The Manager,
M/s.IFFCO Tokio General Insurance Company Limited,
Office at residing 28/29,
Denkanikottai Road,
Shanti Nagar, Hosur,
Tamil Nadu – 635 109.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the decree and judgment dated 13.03.2024 passed in MCOP.No.799 of 2022 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge, Krishnagiri.

For Appellant :Mr.C.Prabakaran
For Respondents :M/s.J.Michel Visuwasam for R2
Notice Dispensed with for R1

JUDGMENT



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Aggrieved by the quantum of compensation fixed by the Motor

Accidents Claims Tribunal, the claimant has come by way of this appeal.

2. According to the claimant, she suffered grievous injuries in a road accident that had occurred on 22.07.2022. According to her, when she was returning to her work place from a Vinayagar Temple, after finishing her prayer by walk, a Maruthi Baleno car belonging to the first respondent registered with second respondent came in a rash and negligent manner and hit the claimant, as a result of which, the claimant received fracture injury in her right leg. She also suffered a head injury. The claim was made seeking compensation of Rs.20,00,000/-.

3. The first respondent owner of the vehicle remained ex-parte and the claim was resisted only by the second respondent by denying manner of the accident as described in the claim petition. It was the case of the second respondent that the claimant contributed to the accident by her sudden movement towards the middle of the road.

4. The Tribunal based on evidence available on record came to

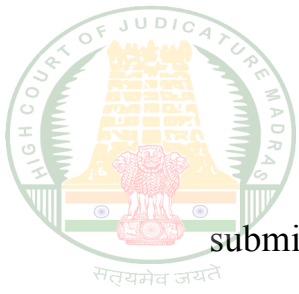


the conclusion that the driver of the first respondent vehicle had driven the vehicle in a rash and negligent manner and fixed 90% negligence on his part.

The Tribunal fixed 10% contributory negligence on the part of the claimant and the compensation payable to the claimant was quantified at Rs.4,59,000/-. Aggrieved by the quantum of compensation, the claimant has come before this Court.

5. The Tribunal based on sketch marked as Ex.R2 came to the conclusions, the accident had occurred, when claimant attempted to cross the road. It also observed that had the claimant noticed the car and crossed road carefully, the accident would not have happened and hence fixed 10% contributory negligence on her. Even if accident had occurred when claimant was crossing the road, as a driver of Motor Vehicle, the 1st respondent has more responsibility in driving the car. He is expected have watchful eye on the road. Hence, the Tribunal was justified in fixing 90% negligence on driver of car.

6. The learned counsel appearing for the claimant would



submit that the accident had occurred in the year 2022 and the Tribunal fixed

Rs.5,500/- towards 1% of disability and the same requires enhancement.

The learned counsel further submitted that the Tribunal fixed notional income at Rs.10,000/- and granted loss of income for three months and the same also requires enhancement.

7. The learned counsel appearing for the second respondent would submit that the disability suffered by the claimant has not interfered with the avocation of the claimant. Therefore, the Tribunal was justified in fixing Rs.5,500/- for 1% of disability. The learned counsel further submitted that in the absence of any evidence to show notional income, the Tribunal fixed it at Rs.10,000/- and the same appears to be reasonable.

8. It is not in dispute, the accident had occurred on 22.07.2022 and the claimant has been in hospital for nearly six days from 22.07.2022 to 27.07.2022, as seen from Ex.P2-discharge summary. A 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) held that the claimant was entitled to Rs.7,000/- per percentage of disability for



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the accident that had occurred in 2017. In the case on hand, the accident had occurred in the year 2022, therefore, this Court feels it would be appropriate to fix Rs.9,000/- per percentage of disability. The Medical Board which examined the claimant issued Ex.C1-disability certificate, fixing the disability at 40% and the same is taken for the purpose of calculation as there is no contra evidence. Therefore, the claimant is entitled to Rs.,3,60,000/- under the head disability.

9. The amount of Rs.1,09,000/- awarded by the Tribunal is based on the medical bills marked as Exs.P5 and P10. Therefore, the same is confirmed. Taking into consideration the nature of injury suffered by the claimant and the treatment period in hospital, this Court feels amount of Rs.50,000/- awarded under the head pain and suffering is on the higher side and the same is reduced to Rs.40,000/-. Likewise, the amount awarded under the heads loss of amenities and attender charges is reduced to Rs.50,000/-. The amount of Rs.1,000/- awarded towards damages to clothes is set aside. The amount awarded by the Tribunal under the heads transport charges and extra nourishment are affirmed.

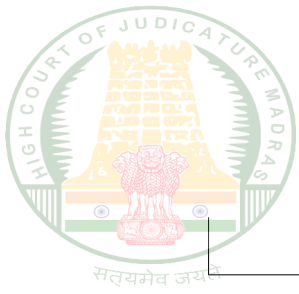
10. The accident had occurred in the year 2022, therefore, this



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Court feels that a sum of Rs.18,000/- would be reasonable to be taken as notional income for the claimant. It was averred in the claim petition that the claimant was employed as worker in a garments company, Tiruppur. Since, she suffered fracture injury, the nature of injury suffered would have kept her out of avocation for nearly three months. Hence, an amount of Rs.30,000/- granted towards loss of income is increased to Rs.54,000/-. The award passed by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)
1.	Disability	2,20,000/-	3,60,000/-
2.	Medical expenses	1,09,000/-	1,09,000/-
3.	Funeral Medical Expenses	20,000/-	Set aside
4.	Pain and suffering	50,000/-	40,000/-
5.	Transportation Expenses	10,000/-	10,000/-
6.	Additional nourishment	10,000/-	10,000/-
7.	Damages to clothes	1,000/-	Set aside
8.	Loss of amenities and attender charges	60,000/-	50,000/-
9.	Loss of income	30,000/-	54,000/-
	Total	Rs.5,10,000/-	Rs.6,33,000/-
	Less 10% contributory negligence on the part of the claimant	Rs.51,000/-	Rs.63,300/-



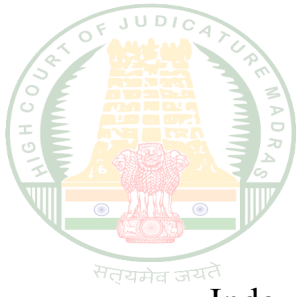
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Total	Rs.4,59,000/-	Rs.5,69,700/-
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11. In view of the discussions made earlier, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal is enhanced to Rs.5,69,700/- instead of Rs.4,59,000/-. The Insurance Company is directed to deposit the enhanced amount together with interest at the rate of 7.5% per annum from the date of claim petition to the realisation, (excluding the delay period of 160 days as per order in CMP.No.28857 of 2024) after deducting the amount already deposited, if any, to the credit of MCOP.No.799 of 2022, on the file of the Motor Accidents Claims Tribunal, Special Subordinate Judge, Krishnagiri, within a period of six weeks from the date of receipt of copy of this judgment. On such deposit, the appellant is permitted to withdraw the award amount by making formal application.

12. Accordingly, this 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
cum Special Subordinate Judge, Krishnagiri.

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

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S.SOUNTHAR, J.

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