



CMA.No.978 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :01.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.978 of 2025

S.Tamilselvi

... Appellant

Vs.

1. K.Sakthivel

2.The New India Assurance Company Limited

No. 92, East Coast Chambers,

GN Chetty Road, T.Nagar, Chennai 17.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to enhance the amount awarded in MCOP No. 80 of 2021 dated 22.11.2023 passed by the Motor Accident Claims Tribunal No. II (Special Subordinate Court for MCOP Cases), Tiruvallur.

For Appellant : Mr.S.Sivakumar

JUDGMENT

Aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, the injured claimant has come before this court.

2.It is the case of the appellant/ claimant that she suffered injury in a



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road accident that had taken place on 13.04.2016. It is stated in the claim petition that she was walking along with the bicycle carrying her minor relative child on that day proceeding from Manavalanagar to Poonamallee. When she came near Nagathamman temple in Poonamallee High road, the Ford Fiesta car belonged to the first respondent insured with the second respondent came in a rash and negligent manner and dashed against the claimant. As a result of the accident, the claimant suffered injury in her right femur and left hand. She was treated as an inpatient in MIOT hospital for 17 days (13.04.2016 to 23.04.2016 and 23.06.2019 to 28.06.2019). Even after discharge, she took physiotherapy for 6 months. Therefore, the claim petition was filed seeking compensation of Rs.30,00,000/-

3. The first respondent remained *exparte* before the Tribunal and the claim was contested by the second respondent/ insurance company on the ground that the accident did not occur due to the negligence on the part of the driver of the car. The age, income and nature of the injury pleaded in the claim petition were disputed in the counter.



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4. The Tribunal, on appreciation of evidence available on record, came to the conclusion that the accident had occurred only due to the rash and negligent driving of the car insured with the second respondent/ insurance company. The compensation payable to the claimant was quantified at Rs.4,54,130/- Not satisfied with the quantum of compensation, the claimant has come before this court.

5. The learned counsel for the appellant/injured claimant submitted that the amount of Rs.15,000/- each awarded by the Tribunal under the heads pain and suffering and the loss of amenities are very much on lower side and hence, it requires enhancement.

6. The Medical Board which examined the claimant issued disability certificate fixing disability at 40%. The Tribunal granted Rs. 5,000/- per percentage of the disability and hence, the amount under the head loss of disability was fixed at Rs.2,00,000/-. Taking into consideration the year of accident, the amount of Rs.5,000/- awarded by the Tribunal per percentage of the disability is fair and reasonable and the



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WEB COPY said finding is confirmed. The Tribunal liberally awarded Rs.50,000/- under the head transportation charges and Rs.70,000/- under the head loss of income during treatment period.

7. In the petition, it was stated that she was working as an Operating Engineer in a company at the time of accident. She also produced Exhibit P9, pay slip to prove that she had drawn Rs.20,982/- as salary for the month of March 2016. However, the claimant has not produced any document to show that during treatment period she applied for leave on loss of pay. In these circumstances, the amount awarded by the Tribunal under the head loss of income during the treatment period is not sustainable. The amount awarded by the Tribunal under the head transportation charges is also on higher side. Taking into consideration all these factors, this Court feels that even if the amount awarded by the Tribunal under the heads pain and suffering and loss of amenities requires enhancement, the total amount awarded by the Tribunal need not be disturbed. Accordingly, the claimant has not made out any case to interfere with the award for enhancement of the compensation Accordingly, the



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WEB COPY Civil Miscellaneous Appeal stands dismissed. No costs.

01.04.2025

Index: Yes/No
Internet: Yes/No
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To

1. Motor Accidents Claims Tribunal
Special Subordinate Court for MCOP Cases
Tiruvallur.

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



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S.SOUNTHAR, J.

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