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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2026

CORAM

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

C.M.A.No.808 of 2023

D.Sumithra ... Appellant

Vs.

1. M/s.Rajkishore Engineering Construction Private Ltd.,
No.1C, Pillaiyar Koil Street,
Pudupedu, Chennai – 600 069.

2. SBI General Insurance Company Ltd.,
No.60/149, Greams Road,
Chennai – 600 006. ...Respondents

(Since R1 remained *ex parte* before the Tribunal, his presence may be dispensed with)

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the Judgment and Decree dated 26.03.2018 passed in MACTOP No.4024 of 2015 on the file of the Motor Accident Claims Tribunal, the Special Sub Court No.1, Motor Accidents Claims Petitions, Small Causes Court, Chennai.

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For Appellant : Mr.F.Terry Chella Raja

For R2 : Mr.K.Vinod

J U D G M E N T

The unsuccessful claimant has preferred this Civil Miscellaneous Appeal seeking for enhancement of compensation.

2. The claim petition has been filed under Section 166 of the Motor Vehicles Act, for the injuries sustained by the claimant in a road accident that took place on 11.03.2015.

3. According to the claimant, on 11.03.2015 at about 09.40 a.m. when the claimant was riding her motorcycle bearing Registration No TN 20 AR 6870 at CTH Road, Ambattur, opposite to Canara Bank from Pudhur to Ambattur via, at that time, a tipper lorry bearing Registration No TN 22 CD 1706 driven by its driver in a rash and negligent manner and dashed against the claimant, as a result of which, the claimant sustained grievous and multiple injuries all over her body.

4. The first respondent did not appear before the Tribunal and he was

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called absent and was set *ex parte.*

5. The second respondent therein has filed a counter statement wherein they denied the manner of accident.

6. Before the Tribunal, on behalf of the claimant, the claimant was examined herself as PW1 and Ex.P1 to Ex.P10 were marked. On behalf of the second respondent, no witness was examined and no document was marked. The disability certificate issued by the Medical Board was marked as Ex.C1.

7. Upon appreciation of evidence adduced on either side, the Tribunal came to a conclusion that the accident had occurred only to due to rash and negligent act of the driver of the offending vehicle.

8. With regard to quantum of compensation, the Tribunal considering the nature of injuries sustained by the claimant and the claimant also

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appeared before the Medical Board and the Medical Board assessed the disability of the claimant as 30% of permanent disability and adopted percentage method by awarding Rs.3,000/- for each percentage of disability and awarded compensation of Rs.90,000/- under the head disability. The Tribunal also awarded compensation under various heads as hereunder :

S.No	***Heads***	***Amount awarded by the Tribunal***
1.	Disability	90,000/-
2.	Pain and sufferings	30,000/-
3.	Hospital & Medical expenses	1,50,520/-
4.	Transportation	3,075/-
5.	Extra nourishment	15,000/-
6.	Attender charges	4,000/-
7.	Loss of earnings	30,000/-
8.	Loss of future prospectus	20,000/-
	Total	**Rs.3,42,595/- rounded off to Rs.3,42,600/-**

9. Aggrieved over the same, the claimant has preferred this present appeal seeking for enhancement of compensation.

10. The learned counsel for the appellant / claimant would submit that the Tribunal failed to consider the age, occupation and income of the claimant. At the time of accident, the claimant was aged about 35 years and

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working as an Accountant at a private concern and earned about Rs.20,000/- per month. Whereas the Tribunal fixed the income of the claimant as Rs.10,000/- per month as notional income without considering the salary with experience letter and termination letter which was marked as Ex.P7 and Ex.P8. The Tribunal failed to consider the injuries sustained by the claimant like Bilamallelour fracture right ankle, lateral malleolus fracture left ankle with fracture 1st and 2nd metatarsal left side, swelling, deformity in both the ankles and other multiple grievous injuries all over the body. The accident took place in the year 2015, the Tribunal fixing a sum of Rs.3,000/- per percentage of disability appears to be meagre and the same has to be enhanced. The compensation awarded by the Tribunal under other heads also very meagre and hence prays to enhance the compensation.

11. *Per contra,* learned counsel for the second respondent / Insurance Company would submit that upon considering the nature of injuries sustained by the claimant, the Tribunal has rightly fixed a sum of Rs.3,000/- per percentage of disability and accordingly, awarded compensation under the head disability which appears to be proper and reasonable. Further would submit that the Tribunal ought not to have awarded compensation under the

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head loss of earnings and the same has to be set aside.

12. Heard learned counsel for the appellant, learned counsel for the second respondent and perusal the materials available on record.

13. There is no dispute with regard to the manner of accident and the entire negligence fixed on the part of the driver of the offending vehicle. It is relevant to note that the accident took place on 11.03.2015 and the claimant was aged about 35 years at the time of accident. The Tribunal fixed a sum of Rs.3,000/- per percentage of disability, which appears to be meagre and this Court is inclined to fix a sum of Rs.5,000/- per percentage of disability and accordingly, a sum of Rs.1,50,000/- (Rs.5,000/- x 30%) is enhanced under the head disability. A perusal of Ex.P2/discharge summary shows that the claimant was admitted as an inpatient from 11.03.2015 to 26.03.2015 in B.M.Orthopaedic Hospital, Ambattur, Chennai, wherein surgery was done on 14.03.2015. Considering the nature of injuries sustained by the claimant, the Tribunal fixed a sum of Rs.30,000/- under the head pain and sufferings which appears to be meagre and this Court is inclined to enhance the same as Rs.75,000/-. With regard to medical expenses awarded by the Tribunal, it

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does not require any interference.

13.1. According to the claimant, he was an accountant and was earning a sum of Rs.20,000/- per month at the time of accident. In the absence of examination of the employer of the claimant, the Tribunal has fixed a sum of Rs.10,000/- as notional monthly income of the claimant which appears to be reasonable and proper and accordingly awarded a sum of Rs.30,000/- under the head loss of earnings which appears to be meagre. On account of the accident, the claimant would not have been in a position to attend to his work atleast for six months. Therefore, a sum of Rs.60,000/- (Rs.10,000/- x 6) is awarded towards loss of earnings. The compensation awarded by the Tribunal under the head transportation, extra nourishment and attender charges are appears to be meagre and the same are enhanced to Rs.15,000/-, Rs.20,000/- and Rs.20,000/-, respectively. The Tribunal has awarded compensation under the head loss of future prospects, which is not proper and the head is modified as loss of amenities, instead of future prospects.

14. The following tabular column would show the amount enhanced

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by this Court under various heads ;

S.No	***Heads***	***Amount awarded by this Court***
1.	Disability	1,50,000/-
2.	Pain and sufferings	75,000/-
3.	Hospital & Medical expenses	1,50,520/-
4.	Transportation	15,000/-
5.	Extra nourishment	20,000/-
6.	Attender charges	20,000/-
7.	Loss of earnings (Rs.10,000/- x 6)	60,000/-
8.	Loss of amenities	20,000/-
	Total	**Rs.5,10,520/-**

15. Thus, the compensation awarded by the Tribunal is enhanced to **Rs.5,10,520/-.** This amount shall carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit.

16. In the result,

i. The Civil Miscellaneous Appeal is partly allowed. No costs.

ii. The compensation awarded by the Tribunal is enhanced to

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Rs.5,10,520/-.

iii. The appellant / claimant is directed to pay the court fee for the enhanced compensation amount, if any, and the Registry is directed to draft the decree only after the receipt of Court fee.

iv. The second respondent, SBI General Insurance Company Limited, Chennai, is directed to deposit the enhanced compensation amount of **Rs.5,10,520/-** (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MACTOP No.4024 of 2015 on the file of the Motor Accident Claims Tribunal, the Special Sub Court No.1, Motor Accidents Claims Petitions, Small Causes Court, Chennai, within a period of six weeks from the date of receipt of a copy of this order/uploading of this order.

v. On such deposit being made, the appellant / claimant is at liberty to withdraw the same on filing appropriate application before the Tribunal.

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NCC : Yes / No

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Index : Yes / No
Speaking Order : Yes / No
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To

1. The Motor Accident Claims Tribunal,
Special Sub Court No.1,
Motor Accidents Claims Petitions,
Small Causes Court, Chennai.

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

M.JOTHIRAMAN, J.

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Order QR

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