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C.M.A.No.3245 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.01.2026

CORAM

THE HONOURABLE MRS. JUSTICE R. KALAIMATHI

C.M.A.No.3245 of 2025

Kayalvizhi

...Appellant

vs.

1.Chinnadurai

2.The New India Assurance Co. Limited.,
No.45, Moore Street,
5th Floor,
Chennai-600 001.

3.Saravanan

4.The Oriental Insurance Co. Ltd.,
No.115/216, Prakasam Salai,
Chennai-108.

...Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to allow this Civil Miscellaneous Appeal by enhancing the compensation awarded in the judgment and decree, dated 15.03.2024, passed in M.C.O.P.No.947 of 2016, on the file of Special Sub Judge No.1 (to deal with MCOPs) Small Causes Court, Chennai.



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C.M.A.No.3245 of 2025

For Appellant : Mr.K.Balaji
For R-4 : Mr.K.Swaminathan
For R-2 : Mr.A.Salomi

JUDGMENT

This Civil Miscellaneous Appeal has been preferred for enhancing the compensation awarded in the judgment and decree, dated 15.03.2024, passed in M.C.O.P.No.947 of 2016, on the file of the Motor Accident Claims Tribunal / Special Sub Judge No.1, Small Causes Court, Chennai.

2. The parties are indicated herein as per their litigative status and ranking before the Tribunal.

3. Claim Petition was filed under Section 166 of Motor Vehicles Act, 1988, claiming compensation of Rs.12,00,000/- for the injuries sustained by the claimant herein in a road traffic accident that took place on 26.07.2015.

4. The Tribunal, upon consideration of the evidence and after hearing arguments advanced by either side, granted compensation of Rs.3,83,000/- with interest at the rate of 7.5% p.a. from the date of



C.M.A.No.3245 of 2025

numbering of claim petition and the amounts awarded under different heads are given hereunder:

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<i>S.No</i>	<i>Head</i>	<i>Amount</i>
1.	For the disability suffered	Rs.1,20,000/-
2.	For pain and sufferings	Rs.35,000/-
3.	For transport expenses	Rs. 4,000/-
4.	For medical expenses	Rs. 1,79,636/-
5.	For extra nourishment	Rs. 10,000/-
6.	For attender charges	Rs. 4,500/-
7.	For loss of earnings	Rs. 19,000/-
8.	For loss of amenities	Rs. 10,000/-
<i>Total Compensation is fixed at</i>		Rs. 3,82,136/-
<i>Rounded off to</i>		Rs.3,83,000/-



5. The learned counsel for the appellant/claimant would vehemently contend that the injured, who was 23 years of age at the relevant point of time and who was a daily wage worker, on account of the accident, suffered Communitied Open-Fracture Left Tibia and she was hospitalized thrice. He would further submit due to the injuries, she is not in a position to work as she did and the before Medical Regional Board fixed her disability at 30% and the Tribunal granted compensation for the partial permanent disability, based on the percentage method, which is incorrect. He would further contend that the claimant was earning a sum of Rs.16,000/- per month as a daily wage worker, but the Tribunal has taken the notional income at Rs.9,500/- p.m., which is also on the lower side and sought for enhancement of compensation. He would further contend that taking into the account of the nature of the injuries suffered by the claimant, the amount granted for pain and sufferings is inadequate and the amounted granted under the other heads are also insufficient and therefore, he sought for enhancement of the compensation.

6. *Per contra*, the learned counsel appearing for the second and fourth respondents/Insurance Company would strenuously argue that based upon the age, occupation, nature of injuries suffered and other attending circumstances, the amounts granted by the Tribunal under



different heads are reasonable and acceptable and hence, it does not call for any interference by this Court.

7. It has come on record through the evidence of P.W.1 that on account of the accident, the claimant suffered Communitied Open-Fracture Left Tibia. For which, wound debridement and Inter locking, Intra Medullary Nailing Left Tibia were done. She took treatment at Hindu Mission Hospital and further she has taken treatment as inpatient from 28.07.2015 to 06.08.2015 at Chettinad Super Speciality Hospital, Kelambakkam, Chengalpattu. Further, she has taken treatment as inpatient from 30.09.2015 to 02.10.2025 in B.S.Hospital, Chitlapakkam, Chennai. She has also taken treatment as inpatient from 29.11.2017 to 30.11.2017 at Gajanan Hospitals Pvt Ltd., West Tambaram, Chennai.

8. The Regional Medical Board, Government Royapettah Hospital, Chennai assessed the disability of the claimant and fixed the permanent disability at 30%. As per the Ex.P3, Ex.P5 and Ex.P7, the age of the claimant was taken as 23 years. Furthermore, P.W.1 would state that at the time of accident, she was earning a sum of Rs.16,000/- per month as a daily wage worker. A copy of her bank passbook has been marked as Ex.P11. Taking into consideration of the date of accident and nature of injuries suffered by the claimant, the tribunal has granted Rs.4,000/- per

Page No.5/10



C.M.A.No.3245 of 2025

percentage. Though, no document was marked to prove the income of the claimant, the tribunal has fixed the income of the claimant as Rs.9,500/- p.m. In consideration of the treatment records, functional disability of the claimant is taken as 30% and a sum of Rs.4,000/- is granted for percentage and for the disability suffered, a sum of Rs.1,20,000/- (Rs.4,000/- x 30) is granted. The Tribunal has not granted any compensation for loss of Martial prospects and sum of Rs.40,000/- is granted for loss of martial prospects. As regards the other heads, the amounts awarded by the Tribunal appear to be reasonable and acceptable. Therefore, it does not warrant any interference by this Court. The amounts awarded by this Court, as mentioned *supra*, after rework, are tabulated hereunder: The amounts awarded by this Court, as mentioned *supra*, after rework, are tabulated hereunder:

S. No	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For the disability suffered by the claimant	Rs.1,20,000/-	Rs.1,20,000/-	Confirmed
2	For pain and sufferings undergone by the claimant	Rs.35,000/-	Rs.45,000/-	Enhanced
3	For Transport	Rs. 4,000/-	Rs. 14,000/-	Enhanced



C.M.A.No.3245 of 2025

	Expenses			
4	For Medical Expenses	Rs. 1,79,636/-	Rs. 1,79,636/-	Confirmed
5	For Extra nourishment	Rs. 10,000/-	Rs. 10,000/-	Confirmed
6	For attender charges	Rs. 4,500/-	Rs. 4,500/-	Confirmed
7	For of Earnings during treatment period	Rs. 19,000/-	Rs.52,000/-	Enhanced
8	For loss of amenities	Rs. 10,000/-	Rs. 20,000/-	Enhanced
9.	For loss of Martial prospects	-----	Rs.40,000/-	granted
	Total	Rs.3,82,136/-	Rs.4,85,136/-	Enhanced by Rs.1,02,000/-
		Rounded off to Rs.3,83,000/-	Rounded off to Rs.4,85,000/-	

9 . In the result,

(i) The Civil Miscellaneous Appeal stands partly allowed. No costs.



C.M.A.No.3245 of 2025

(ii) The compensation awarded by the Tribunal is enhanced from

Rs.3,83,000/- to Rs.4,85,000/-.

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(iii) The second and fourth respondent are directed to deposit each 50% of the enhanced compensation amount i.e., 4,85,000/- (less the amount already deposited, if any) along with interest at 7.5% p.a. from the date of numbering of the claim petition till the date of realisation to the credit of M.C.O.P.No.947 of 2016 on the file of the on the file of the Motor Accident Claims Tribunal / Special Sub Court No.1, (to deal with MCOPs) Small Causes Court, Chennai, within a period of eight (8) weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the appellant is permitted to withdraw the award amount with interest, after adjusting the amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(v) The claimant is directed to pay the Court fee for the enhanced compensation amount, if required.

(vi) The Tribunal below shall disburse the amount upon production of the certified copy showing proof of payment of Court fee by the claimant.



C.M.A.No.3245 of 2025

.01.2026

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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To

1. The Judge,
Motor Accident Claims Tribunal / Special Sub Court No.1 (to deal with
MCOPs) Small Causes Court, Chennai.
2. The Section Officer,
VR Section,
High Court, Madras.

R.KALAIMATHI, J.

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C.M.A.No.3245 of 2025

C.M.A.No.3245 of 2025

09.01.2026