

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.06.2017

CORAM

The Honourable Mr.Justice S.Manikumar
and
The Honourable Mr.Justice G.R.Swaminathan

C.M.A. Nos.2085 and 2086 of 2016

M.Ramamoorthy .. Appellant in C.M.A. No.2085/2016
R.Hemavathy .. Appellant in C.M.A. No.2086/2016

Vs.

1.V.Jayaprakash

2.The Manager, Claims

Cholamandalam General Insurance Company Ltd
Dara Road, N.S.C. Bose Road
Chennai - 01

3.S.Murugan

4.The Manager Claims

ICICI Lombard General Insurance Company Ltd
Swarnambigai Plaza, 1st Floor
Omalar Main Road
Salem

.. Respondents in both CMAs

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the common judgment and decrees dated 30.04.2012, passed in M.C.O.P. Nos.26 and 27 of 2010, by the Motor Accident Claims Tribunal, (Subordinate Court), Hosur, Krishnagiri.

For Appellant in both : Mr.M.Sriram
appeals

For Respondents in : Mr.N.Vijayaraghavan for R2
both appeals Mrs.R.Srividhya for R4

COMMON JUDGMENT

(Made by S.MANIKUMAR, J.)

Quantum of compensation of Rs.16,24,000/- and Rs.3,96,000/- with interest at the rate of 7.5% and costs, awarded in MCOP Nos.26 and 27 of 2010 respectively, on the file of the Motor

Accidents Claims Tribunal (Subordinate Court), Hosur, to the injured, is challenged solely on the ground that the same are excessive. Tribunal has quantified the compensation as hereunder:
M.C.O.P. No.26 of 2010

Permanent disability and loss of earning capacity	: Rs. 1,20,000/-
Pain and suffering	: Rs. 2,40,000/-
Medical Bills	: Rs. 10,44,000/-
Future Medical Bills	: Rs. 2,00,000/-
Extra Nourishment	: Rs. 10,000/-
Transport Expenses	: Rs. 10,000/-

	: Rs. 16,24,000/-

M.C.O.P. No.27 of 2010

Permanent disability and loss of earning capacity	: Rs. 80,000/-
Pain and suffering	: Rs. 80,000/-
Medical Bills	: Rs. 2,16,000/-
Extra Nourishment	: Rs. 10,000/-
Transport Expenses	: Rs. 10,000/-

	: Rs. 3,96,000/-

2. On 06.03.2017, we passed the following order:
" In the accident, which occurred on 13.06.2009, appellants suffered injuries. They filed M.C.O.P. Nos.26 and 27 of 2010 respectively, on the file of Motor Accident Claims Tribunal (Sub Court), Hosur.

2. M/s.ICICI Lombard General Insurance Company Limited, Salem opposed the claim.

3. As facts, evidence and submissions were common, both the above MCOPs were tried together. The Tribunal held that the driver of the lorry bearing Registration No.KA-01 C-7968 insured with ICICI Lombard General Insurance Company Limited, Salem, was negligent in causing the accident. On evaluation of pleadings and evidence, the Tribunal awarded compensation of Rs.16,24,000/- with interest at the rate of 7.5% per annum from the date of claim till deposit and costs, in M.C.O.P. No.26 of 2010. Insofar as M.C.O.P. No.27 of 2010 is concerned, the Tribunal awarded a sum of Rs.3,96,000/-.

4. Not satisfied with the quantum of compensation, injured have preferred the above civil miscellaneous appeals.

5. Mrs.R.Srividhya, learned counsel appearing for ICICI Lombard General Insurance Company Limited, Salem, respondent No.4 in both the appeals, submitted that testing the correctness of the findings fixing negligence on the driver of the lorry, Insurance Company has filed C.M.A. Nos.2490 and 2491 of 2014 and that they were dismissed by this court on 24.06.2017 upholding the finding of the Tribunal.

6. Registry is directed to ascertain as to whether records have been received. If so, put up along with these appeals. If records are not received, Registry is directed to secure the same within two weeks from today."

3. As the challenge is restricted to quantum alone, we need not delve into the aspect of negligence and liability once again, as the same has been upheld in C.M.A. Nos.2490 and 2491 of 2014, filed by the insurance companies.

4. Today, learned counsel appearing for the parties have arrived at a consensus and given a calculation sheet, after reworking the compensation. We have gone through the same. Considering the injuries, disability suffered by the injured/claimants and the material on record, we enhance the compensation, as hereunder:
M.C.O.P. No.26 of 2010

Disability	
13,000 x 12 x 50% x 14	: Rs. 10,92,000/-
Pain and suffering	: Rs. 1,00,000/-
Medical Bills	: Rs. 10,44,000/-
Future Medical Bills	: Rs. 2,00,000/-
Extra Nourishment	: Rs. 20,000/-
Transport Expenses	: Rs. 20,000/-

	: Rs. 24,76,000/-

M.C.O.P. No.27 of 2010

Disability	
3,000 x 40	: Rs. 1,20,000/-

Pain and suffering	: Rs. 40,000/-
Medical Bills	: Rs. 2,16,000/-
Extra Nourishment	: Rs. 20,000/-
Transport Expenses	: Rs. 20,000/-
Loss of Amenities	: Rs. 25,000/-

	: Rs. 4,41,000/-

4. In view of the reworking, compensation due and payable to the injured in C.M.A. No.2085 of 2016, works out to Rs.24,76,000/-, as against the award of Rs.16,24,000/- passed by the Tribunal. There is enhancement of Rs.8,52,000/-. Similarly, compensation due and payable to the injured in C.M.A. No.2086 of 2016, works out to Rs.4,41,000/-, as against the award of Rs.3,96,000/- passed by the Tribunal. There is enhancement of Rs.45,000/-. In all other respects, the award of the Tribunal is confirmed including 50:50 liability, on Cholamandalam General Insurance Company Limited and ICICI Lombard General Insurance Company Limited.

5. In the result, both the Civil Miscellaneous Appeals are allowed in part. However, there shall be no order as to cost. Both the insurance companies are directed to deposit entire amount now determined by this court, viz. Rs.24,76,000/- and Rs.4,41,000/- respectively, in the ratio of 50:50, with proportionate interest at the rate of 7.5% per annum from the date of claim till realisation and cost awarded by the Tribunal, less the statutory deposit if any, to the credit of M.C.O.P. Nos.26 and 27 of 2010, respectively on the file of the Motor Accident Claims Tribunal (Sub Court), Hosur, within a period of four weeks from the date of receipt of a copy of this judgment.

6. On such deposit, injured/claimants, are permitted to withdraw 50% of the award amount with interest by making necessary applications. Balance amount shall be deposited in a Nationalised Bank in the name of the claimants, under a reinvestment scheme, for a period of three years.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

asr

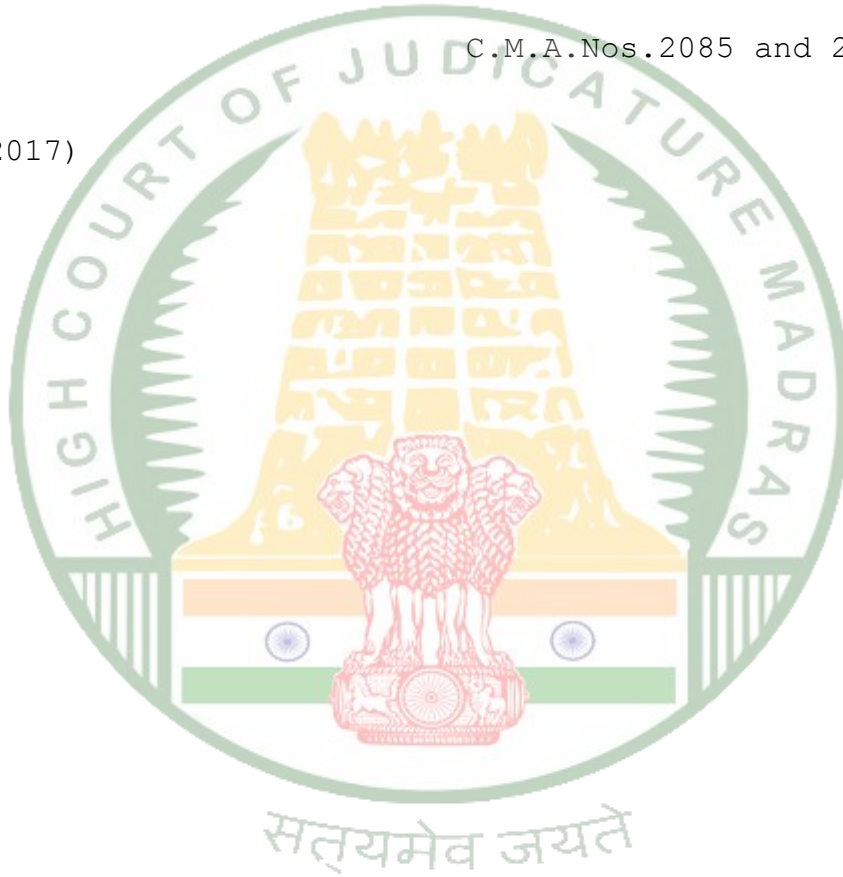
To

The Motor Accident Claims Tribunal
(Sub Court), Hosur.

+1cc to Mr.Mukund R.Pandian, Advocate, S.R.No.44839
+1cc to Mr.Sreevidhya, Advocate, S.R.No.44908
+2cc to Mr.N.Vijayaraghavan, Advocate, S.R.No.45190

C.M.A.Nos.2085 and 2086 of 2016

NMI (CO)
GN(27/09/2017)



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