

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.Nos.1968 to 1971 of 2007
and C.M.P.Nos.2674 to 2677 of 2007

Divisional Manager

United India Insurance Co.Ltd.

Nethaji Road, Cuddalore.

: Appellant in all appeals/2nd Respondent

Vs

Sankar : 1st Respondent in CMA No.1968/07/Claimant

Thara : 1st Respondent in CMA No.1969/07/Claimant

Natarajan : 1st Respondent in CMA No.1970/07/Claimant

Kumaravelu @ Kumar : 1st Respondent in CMA No.1971/07/Claimant

Viswanathan

(Ex-parte before the Lower Court)

: 2nd Respondent in all appeals/ 1st Respondent

C.M.A.No.1968 of 2007 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 23.03.2005 made in MCOP No.409 of 2002 on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Court, Cuddalore.

C.M.A.No.1969 of 2007 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 23.03.2005 made in MCOP No.353 of 2003 on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Court, Cuddalore.

C.M.A.No.1970 of 2007 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 23.03.2005 made in MCOP No.356 of 2003 on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Court, Cuddalore.

C.M.A.No.1971 of 2007 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 23.03.2005 made in MCOP No.357 of 2003 on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Court, Cuddalore.

For Appellant : Mr.N.Vijayaraghavan
in all appeals
For Respondents : No appearance
for R1 in CMA No.1968/2007
Mr.R.Nalliyappan for R1 in C.M.A.Nos.
1969 and 1970/2007
Mr.R.Natarajan for R1 in CMA No.1971/2007

COMMON JUDGMENT

The case in brief, is as follows:

On 27.12.2000, the first respondent in these appeals were travelling as passengers in a van bearing Reg.No.PY-01-T-2228 from North to South direction in the Madras - Trichy Trunk Road. When the van reached the P.K.Agaram Bus Stop at about 2.00 p.m., the bus bearing Reg.No.TN-09-T-9199 belonging to the second respondent in these appeals and insured with the appellant Insurance Company, came from the opposite direction in a rash and negligent manner and hit against the said van. Due to the said impact, the first respondent in these appeals sustained grievous injuries. They filed claim petitions before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal awarded compensation and the details of the same are as under:

CMA No.	MCOP No.	Amount of compensation (Rs.)
1968 of 2007	409/2002	1,25,037/-
1969 of 2007	353/2003	95,000/-
1970 of 2007	356/2003	95,000/-
1971 of 2007	357/2003	90,265/-

These amounts have been awarded, with interest at the rate of 9% per annum from the respective dates of petitions.

2.Challenging the awards passed by the Tribunal, the appellant Insurance Company has come up with the present Civil Miscellaneous Appeals.

3.The learned counsel for the appellant Insurance Company has submitted that the compensation awarded by the Tribunal to the claimants herein are exorbitant considering the nature of injuries sustained by them. He submitted that the Tribunal has awarded huge sums for permanent disability and loss of earning power. Stating so, he prayed for reducing the quantum of compensation.

4.The learned counsel for the first respondent/claimants in these appeals, have submitted that the Tribunal has rightly considered the materials and evidence and has rightly awarded the compensation which is just, fair and reasonable and hence the awards passed by the Tribunal does not require any interference in the hands of this Court.

5.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

6.Since the finding of the Tribunal that the accident had occurred only due to the rash and negligent driving of the driver of the bus is not questioned by the learned counsel for the appellant Insurance Company, this Court is not inclined to interfere with the said finding.

7.The details of compensation awarded by the Tribunal in respect of CMA No.1968 of 2007 (MCOP No.409 of 2002), are as follows:

HEADS	AMOUNT (Rs.)
Pain, suffering and mental agony	10,000/-
Extra nourishment	2,000/-
Attender charges	3,000/-
Medical expenses	33,037/-
Permanent disability	75,000/-
Loss of income during the treatment period	12,000/-
Loss of future earning capacity due to permanent disability	1,25,000/-
TOTAL....	2,60,037/-

8.The details of compensation awarded by the Tribunal in respect of CMA No.1969 of 2007 (MCOP No.353 of 2003), are as follows:

HEADS	AMOUNT (Rs.)
Pain, suffering and mental agony	10,000/-
Extra nourishment	2,000/-
Attender charges	3,000/-
Permanent disability	75,000/-
Loss of income during the treatment period	10,000/-
Loss of future earning capacity due to permanent disability	1,25,000/-
TOTAL.....	2,25,000/-

9.The details of compensation awarded by the Tribunal in respect of CMA No.1970 of 2007 (MCOP No.356 of 2003), are as follows:

HEADS	AMOUNT (Rs.)
Pain, suffering and mental agony	10,000/-
Extra nourishment	2,000/-
Attender charges	3,000/-
Permanent disability	75,000/-
Loss of income during the treatment period	15,000/-
Loss of future earning capacity due to permanent disability	1,25,000/-
TOTAL.....	2,30,000/-

10.The details of compensation awarded by the Tribunal in respect of CMA No.1971 of 2007 (MCOP No.357 of 2003), are as follows:

HEADS	AMOUNT (Rs.)
Pain, suffering and mental agony	10,000/-
Extra nourishment	2,000/-
Attender charges	3,000/-
Medical expenses	1,265/-
Permanent disability	30,000/-
Loss of income during the treatment period	9,000/-
Loss of future earning capacity due to permanent disability	1,00,000/-
TOTAL....	1,75,265/-

Even though the total compensation works out to Rs.1,55,265/- in respect of MCOP No.357 of 2003 (CMA No.1971 of 2007), the Tribunal has awarded a sum of Rs.1,75,265/-.

11.The injuries sustained by the injured are simple in nature. Considering the nature of injuries sustained by the injured, this Court is of the opinion that the amounts awarded by the Tribunal towards permanent ability, are on the higher side and it would be appropriate to award a sum of Rs.1,000/- per percentage of disability. Further, the Tribunal has awarded a huge sum towards loss of future earning on account of permanent disability. Having awarded a sum towards permanent disability, the amount awarded towards loss of future earning capacity on account of permanent disability, is on the higher side. Hence, it would be appropriate to reduce the amount awarded by the Tribunal towards this head to Rs.25,000/- in all these cases. With regard to the amounts awarded towards other heads, the Tribunal has correctly considered the materials and evidence and has awarded reasonable compensation towards these heads and hence the same are confirmed. The interest rate fixed by the Tribunal at 9% per annum from the date of petition, is on the higher side, since the rate of interest at the relevant point of time was 7.5%. Hence, the interest rate fixed by the Tribunal stands modified to 7.5% per annum from the date of petition. The details of the modified compensation are as follows:

CMA No.1968 of 2007 (MCOP No.409 of 2002):

HEADS	AMOUNT (Rs.)
Pain, suffering and mental agony	10,000/-
Extra nourishment	2,000/-
Attender charges	3,000/-
Medical expenses	33,037/-
40% Permanent disability	40,000/-
Loss of income during the treatment period	12,000/-
Loss of future earning capacity due to permanent disability	25,000/-
TOTAL....	2,60,037/-

Thus, the first respondent in C.M.A.No.1968 of 2007 is entitled to the modified compensation of Rs.1,25,037/- with interest at the rate of 7.5% per annum from the date of petition.

CMA No.1969 of 2007 (MCOP No.353 of 2003):

HEADS	AMOUNT (Rs.)
Pain, suffering and mental agony	10,000/-
Extra nourishment	2,000/-
Attender charges	3,000/-
45% Permanent disability	45,000/-
Loss of income during the treatment period	10,000/-
Loss of future earning capacity due to permanent disability	25,000/-
TOTAL....	2,25,000/-

Thus, the first respondent in C.M.A.No.1969 of 2007 is entitled to the modified compensation of Rs.95,000/- with interest at the rate of 7.5% per annum from the date of petition.

CMA No.1970 of 2007 (MCOP No.356 of 2003):

HEADS	AMOUNT (Rs.)
Pain, suffering and mental agony	10,000/-
Extra nourishment	2,000/-
Attender charges	3,000/-
40% Permanent disability	40,000/-
Loss of income during the treatment period	15,000/-
Loss of future earning capacity due to permanent disability	25,000/-
TOTAL....	2,30,000/-

Thus, the first respondent in C.M.A.No.1970 of 2007 is entitled to the modified compensation of Rs.95,000/- with interest at the rate of 7.5% per annum from the date of petition.

CMA No.1971 of 2007 (MCOP No.357 of 2003):

HEADS	AMOUNT (Rs.)
Pain, suffering and mental agony	10,000/-
Extra nourishment	2,000/-
Attender charges	3,000/-
Medical expenses	1,265/-
40% Permanent disability	40,000/-
Loss of income during the treatment period	9,000/-

Loss of future earning capacity due to permanent disability	25,000/-

TOTAL....	1,75,265/-
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Thus, the first respondent in C.M.A.No.1971 of 2007 is entitled to the modified compensation of Rs.90,265/- with interest at the rate of 7.5% per annum from the date of petition.

12.The appellant Insurance Company is directed to deposit the modified award amounts with interest, as ordered above by this Court, after deducting the amounts if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the first respondent in these appeals shall withdraw their respective shares, on making proper application before the Tribunal.

13.The Civil Miscellaneous Appeals are partly allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(Ret.Judges)

// True Copy//

Sub Assistant Registrar

KM

To

1.The Motor Accidents Claims Tribunal
Principal Subordinate Court, Cuddalore.

Copy to: The Section Officer,
VR Section, Madras High Court.

+4ccs to Mr.M.B.Gopalan, Advocate, SR.No.73724 to 72727.

C.M.A.Nos.1968 to 1971 of 2007
and
C.M.P.Nos.2674 to 2677 of 2007

CNR(CO)
CSR: 03/03/2020