

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 15.10.2020

Judgment Delivered on : 11.11.2020

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE C. SARAVANAN

Civil Miscellaneous Appeal Nos. 1528, 1529, 1530, 1531,
1532, 1535, 1536 and 1537 of 2020
and
C.M.P.Nos.11284, 11285, 11286, 11287, 11288, 11290,
11292 and 11304 of 2020

National Insurance Co., Ltd.,
Motor Third Party Cell
No.751, Anna Salai, Chennai - 600 002.

... Appellant /2nd Respondent
in all CMAs

Versus

1. M. Gayathri

...1st Respondent/Petitioner
in C.M.A.No.1528 of 2020

1.R.Balamurugan
2.B.Ramasamy
3.B.Surya

...Respondents 1 to 3/Petitioners
in CMA 1529 of 2020

1.R.Madasamy
2.M.Gayathri

...Respondents/Petitioners
1 & 2 in CMA No.1530 of 2020

R.Balamurugan

...1st Respondent/Petitioner
in CMA 1531 of 2020

R.Madasamy
2.M.Gayathri

...Respondent 1 & 2/Petitioner
in CMA 1532 of 2020

M.Tejaswini

...1st Respondent/Petitioner
in CMA No.1535 of 2020

(Minor represented by her
uncle and next friend R.Madasamy)

M.Tejaswini ...1st Respondent/Petitioner
in CMA No.1536 of 2020

(Minor represented by her
uncle and next friend R.Madasamy)

M.Tejaswini ...1st Respondent/Petitioner
in CMA No.1537 of 2020

(Minor represented by her
uncle and next friend R.Madasamy)

K.Meena ...Respondent/Owner of the Vehicle in all CMAs

Civil Miscellaneous Appeals are filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree of the Motor Accident Claims Tribunal, II Judge Small Causes Court, Chennai, made in MCOP No.7259 of 2014, dated 31/07/2019, MCOP No.7263 of 2014, dated 31.07.2019, MCOP No.7262 of 2014, dated 31.07.2019, MCOP No.7271 of 2014, dated 31.07.2019, MCOP No.7260 of 2014, dated 31/07/2019, MCOP No.7261 of 2014, dated 31.07.2019, MCOP No.7266 of 2014, dated 31.07.2019, MCOP No.7265 of 2014, dated 31.07.2019 respectively.

For Appellant : Mr. J. Chandran
in all the appeals

For Respondents : Mrs. Ramya V. Rao for R1
in all the appeals

No appearance for R2
in all the appeals

COMMON JUDGMENT

R. SUBBIAH, J

All these appeals are filed by the appellant/Insurance Company, questioning the common award dated 31.07.2019 passed by the Tribunal in MCOP Nos. 7259, 7260, 7261, 7262, 7263, 7265, 7266 and 7271 of 2014 thereby directing the appellant to pay the compensation amount to the claimants.

2. Before the Tribunal, eight Original Petitions have been filed by the survivors as well as by the legal heirs of the deceased in the accident that had taken place on 25.12.2006. The said Claim Petitions have been filed by them, for the injuries sustained by themselves in the accident as well as for the death of their mother, father or brother as the case may be, of those who accompanied them in the vehicle. In other words,

on the fateful day, in the accident that had taken place on 25.12.2006, five persons died and three persons sustained grievous injuries, which resulted in filing eight Original Petitions seeking compensation.

3. In the Claim Petitions filed before the Tribunal in MCOP Nos. 7259, 7260, 7261, 7262, 7263, 7265, 7266 and 7271 of 2014, it was stated by the Claimants that on 25.12.2006, they were travelling from Pallikaranai to Thiruvannamalai Temple in a TATA Sumo Vehicle bearing Registration No. TN 07 AB 1258. When the vehicle was proceeding near Gandhi Nagar, Acharapakkam, the driver of the Vehicle drove it in a rash and negligent manner, with the result, the vehicle fell into a deep pit on the left side of the road. In the impact, the vehicle capsized and five of the occupants died on the spot, leaving three others injured. According to the claimants, the accident had occurred due to the rash and negligent driving of the driver of the Car and therefore, the owner of the Car as well as the Insurer of the Car are jointly liable to pay compensation.

4. The appellant-Insurance Company resisted the claim petitions by contending that the accident did not occur in the manner as stated in the claim petitions. It was also contended that the claimants have to prove that the owner of the Car had a valid insurance policy at the time of accident and there was no violation of any of the conditions of the policy. In the absence of such proof, the Insurance Company cannot be expected to indemnify the owner of the vehicle to pay the compensation for the victims of the accident.

5. Before the Tribunal, common evidence was let in all the Original Petitions. On behalf of the claimants, the survivors of the accident or the injured in the accident have examined themselves as PW1 and PW3, besides three other witnesses were examined as PWs.2, 4 and 5. On behalf of the claimants, Exs. P1 to P54 were marked. On the contrary, the owner of the vehicle or the insurer of the vehicle did not examine any witness or marked any document in support of their defence.

6. The Tribunal upon analysing the oral and documentary evidence, allowed the Claim Petitions by passing a common award dated 31.07.2019, awarding various amounts in favour of the claimants in the eight Original Petitions filed by them. As against the award dated 31.07.2019, the Insurance Company has come up with these appeals questioning their liability to pay the compensation amount as also the quantum of compensation.

7. At the outset, the learned counsel appearing for the appellant-Insurance Company contended that as per the Insurance

Policy, only 5 persons are entitled to travel in the vehicle, but at the time of accident, excess passengers have travelled in the vehicle. Therefore, according to the learned counsel for the appellant, there was a violation of the conditions of the policy and therefore, they are not liable to pay the compensation. However, during the course of argument, the learned counsel for the appellant insurance company submitted that as per the insurance policy the risk of 5 passengers alone is covered, while so, the liability of the insurance company cannot be enlarged to pay compensation for the death of five passengers as well as the three injured passengers. It is further submitted that in respect of the passengers who were not covered by the Insurance Policy, there was no obligation on the part of the appellant to pay compensation. The learned counsel for the appellant therefore contended that, if at all, the Insurance Company is liable to pay the compensation for the death of the five of the passengers covered in MCOP Nos. 7260, 7261, 7262, 7263 and 7265, corresponding to CMA Nos. 1532, 1535, 1530, 1529 and 1537 of 2020 respectively and consequently, the Insurance Company has to be exonerated from paying the compensation to the injured claimants in MCOP Nos. 7259, 7266 and 7271 of 2014 corresponding to CMA Nos. 1528, 1536 and 1531 of 2020 respectively.

8. At the same time, the learned counsel for the appellant-Insurance Company contended that the compensation awarded by the Tribunal in respect of the five Claim Petitions relating to death of the legal heirs of the claimants is excessive and onerous. The Tribunal has awarded excess amount than the one which the claimants are entitled to. In some claim petitions, the Tribunal has awarded more amount as compensation than the one claimed. Further, the Tribunal did not take note of the fact that the accident had occurred in the year 2006, but the claim petitions were filed only in the year 2014, therefore, the claimants are not entitled for interest from the date of the claim petitions. In any event, the amount awarded by the Tribunal is not just and fair compensation and therefore, the learned counsel for the appellant prayed for reduction of the compensation amount awarded by the Tribunal in MCOP Nos. 7260, 7261, 7262, 7263 and 7265 corresponding to CMA Nos. 1532, 1535, 1530, 1529 and 1537 of 2020 respectively.

9. Per contra, the learned counsel for the respondents/claimants contended that the appellant-Insurance Company has not raised in the counter statement filed before the Tribunal that the Insurance Policy covers only the risk of five passengers, but more than five passengers have travelled at the time of accident. In the absence of any such defence raised

before the Tribunal, the appellant is estopped from raising the plea of violation of conditions of policy in these appeals. Similarly, the appellant did not raise the question of delay in filing the claim petition and it cannot be agitated before this Court. It is also stated that as per the policy, the coverage is available for a Driver and five passengers. Therefore, in a case of this nature, the ratio laid down by the Supreme Court in National Insurance Company vs. Anjana Shyam, reported in 2007 ACJ 2129, has to be followed. In that Judgment, a bus carrying 90 passengers met with an accident in which the driver and 26 occupants of the bus died, besides 63 persons were injured. As per the Policy of Insurance, the risk of only 42 passengers were covered. The Supreme Court, held that the highest of the 42 awards has to be taken up and such amount has to be paid by the Insurance Company so that the entire amount can be equally distributed among the deceased as well as the injured. It was also held that the 42 awards to be satisfied by the Insurance Company, would be the 42 awards in the descending order starting from the highest of the awards. By pointing out this decision, the learned counsel for the respondents/claimants contended that, even if there is a violation of the policy condition, as pleaded by the appellant, the compensation amount has to be distributed in the manner as held by the Supreme Court in Anjana Shyam case (cited supra), or, in the alternative, the Insurance Company shall be directed to pay the compensation amount to the claimants in MCOP Nos. 7260, 7261, 7262, 7263 and 7265, corresponding to CMA Nos. 1532, 1535, 1530, 1529 and 1537 of 2020 respectively. Consequently, the amount awarded in respect of the injured claimants in MCOP Nos. 7259, 7266 and 7271 of 2014 corresponding to CMA Nos. 1528, 1536 and 1531 of 2020 respectively, shall be directed to be paid by the owner of the vehicle, who remained ex-parte before the Tribunal.

10. As regards the plea of the appellant-Insurance Company that the Tribunal has awarded more amount than the one claimed in the Claim Petition, the learned counsel for the first respondent/claimant(s) contended that as per the decision of the Supreme Court in Nagappa Vs. Gurudayal Sharma reported in AIR 2003 SC 674, it is well open to the Tribunal to award more amount than the one claimed in the Claim Petition taking note of the facts and circumstances of each case. Therefore, the learned counsel for the first respondent contended that the argument of the counsel for the appellant as regards the amount of compensation awarded over and above the one claimed in the claim petition, has no merits.

11. In effect, it is the submission of the learned counsel for the first respondents/claimants that the Tribunal, on proper appreciation of the oral and documentary evidence, has awarded just and fair compensation. The learned counsel appearing for

the first respondent/claimant(s), therefore, prays for dismissal of the appeals.

12. We have heard the learned counsel for the appellant as well as the learned counsel appearing for the first respondent/claimant(s) and perused the materials placed on record.

13. Admittedly, as per the Insurance Policy, the Insurance Company has an obligation to cover the risk of five passengers who are occupants of the vehicle. In the present case, admittedly, more than five passengers have travelled in the vehicle at the time of accident. In such circumstances, as rightly pointed out by the learned counsel for the appellant, the liability of the Insurance Company cannot be extended beyond the risk covered under the policy and consequently, the Insurance Company cannot be directed to pay compensation to more than the five claimants, who have filed the claim petitions. The Insurance Policy taken by the owner of vehicle to cover the number of passengers, can alone determine the liability of the insurance company and such liability cannot be extended beyond the terms of the Policy of insurance. Having regard to the above, we are of the view that the Insurance Company is only liable to pay the compensation amount to the claimants in respect of the fatal claims filed in MCOP Nos. 7260, 7261, 7262, 7263 and 7265 corresponding to CMA Nos. 1532, 1535, 1530, 1529 and 1537 of 2020 respectively. Consequently, we exonerate the Insurance Company from paying the compensation amount to the claimants in M.C.O.P.Nos.7259, 7266 and 7271 of 2014, corresponding to CMA Nos. 1528, 1536 and 1531 of 2020 respectively.

14. The next question that arises for our consideration is as to whether the Tribunal is right in awarding a just and fair compensation in favour of the claimants. In this context, the Claim Petition filed by the Claimant and the award passed thereon by the Tribunal is required to be considered.

CMA No. 1532 of 2020 (MCOP Nos. 7260 of 2014)

15. MCOP No. 7260 of 2014 is filed for the death of Shivaram, a 9 year old student. The first claimant is the father and the second claimant is the sister of the deceased.

16. The Tribunal, by placing reliance on a decision of a Division Bench of this Court in National Insurance Company Ltd., vs. R. Vimala and others reported in 2015 (2) TNMAC 490 (DB), fixed the notional income of the deceased at Rs.5,000/- and by adding 50% as future prospects, arrived at a sum of Rs.90,000/- per annum. By deducting 50% thereof towards personal expenses,

the annual loss was determined at Rs.45,000/-. Applying multiplier '18', a sum of Rs.8,10,000/- was awarded as loss of dependency. That apart, a sum of Rs.25,000/- each, totalling Rs.50,000/- was awarded towards loss of love and affection besides Rs.50,000/- towards Filial consortium to the father/first claimant. In all, the Tribunal awarded Rs.9,10,000/- as compensation.

17. Assailing the award passed by the Tribunal, the learned counsel for the appellant contended that the amount of Rs.5,000/- fixed as notional income and adding 50% thereof towards future prospectus to determine the loss of dependency, is untenable. The deceased was 9 years old at the time of accident and therefore, the amount of compensation awarded by the Tribunal is exorbitant. Above all, the claimants claimed a sum of Rs.6,30,000/- as compensation, but the Tribunal awarded a sum of Rs.9,25,000/-. The learned counsel for the appellant therefore prayed this Court to fix a notional sum of Rs.5,00,000/- as compensation.

18. The first claimant/father had lost his son at a young age. The second claimant/sister, had lost her brother. To compensate such loss, some yardstick has to be adopted. At the same time, the compensation to be awarded must be a just and fair compensation befitting the loss. For the loss of the deceased, being a boy studying in IX Standard, the Tribunal had taken a notional income of Rs.5,000/- and by adding 50% towards future prospectus and deducting 1/3rd towards personal expenses, awarded a sum of Rs.9,25,000/- as compensation. This amount, we feel, is a just and fair compensation awarded by the Tribunal. In fact, the Tribunal did not award any amount under the head "Funeral Expenses", which it ought to have awarded. In any event, we do not find any reason to interfere with the award passed by the Tribunal and therefore, the appeal filed by the Insurance Company is liable to be dismissed.

CMA No. 1535 of 2020 (MCOP Nos. 7261 of 2014)

19. The claimant in this Original Petition is a Minor. She is represented by her Uncle and next friend Madasamy. The claim petition was filed for the death of the mother of the claimant by name Avvai Susila, who was 27 years at the time of her death. At the time when the accident had occurred, the claimant was aged 3 years. It is stated that the deceased was a house wife. The claimant filed the claim petition claiming a sum of Rs.7,10,000/- as compensation. The Tribunal notionally fixed a sum of Rs.6,500/- per month as income of the deceased, added 50% thereof towards future prospects, deducted 1/3rd towards personal expenses and by applying multiplier '17', awarded a sum of Rs.13,26,000/- as loss of dependency. That apart,

Rs.1,00,000/- was awarded towards love and affection, Rs.1,00,000/- towards Filial consortium and Rs.15,000/- towards funeral expenses to arrive at a total compensation of Rs.15,41,000/-.

20. The learned counsel for the appellant contended that in the absence of any proof of earnings, the Tribunal ought to have fixed a sum of Rs.5,000/- as notional income for the deceased, a home maker and awarded a reasonable amount as compensation. That apart, the claimants claimed only Rs.7,10,000/- as compensation, but the Tribunal awarded Rs.15,41,000/- as compensation and therefore, he prayed for reducing the compensation amount.

21. The deceased was a home maker. The claimants admitted that she is not an earning member. In such a situation, the Tribunal has to decide the claim petition by taking note of the contribution of the deceased to the family, not in terms of money, but in terms of her physical labour, while awarding compensation. As a female, aged 27 years, the responsibility to be shouldered by the deceased is enormous and manifold. She is an unpaid servant employed in the house throughout the day. She has to take care of the children, engage in cooking, cleaning the house, buying the goods that may reasonably be required for running the show etc., Further, the task shouldered by the home maker to uphold the virtues of the family is endless. It is also to be mentioned that even an employee who is employed in a firm for wages or a businessman engaged in business, may get rest during weekends and on public holidays, but the nature of work of a home maker demands that she has to continuously engage herself in household work in some form or the other throughout the year. Therefore, the responsibility shouldered by a house wife cannot be curtailed or belittled in any manner. In the present case, the claimant had lost her mother at a young age, inter-alia, deprived of the parental care. Taking note of the above, for the purpose of compensating the death of the deceased in this case, Tribunal has notionally fixed a meagre sum and arrived at a just and fair compensation. We are not, therefore, inclined to interfere with the amount awarded by the Tribunal in favour of the claimant, which in our opinion is a just and fair compensation.

CMA No. 1530 of 2020 (MCOP Nos. 7262 of 2014)

22. The deceased in this case is Gomathy, who was aged 30 years at the time of her death in the accident. The claimants are her husband and minor daughter aged 17 years. It is claimed that the deceased was a home maker. The claimants claimed a sum of Rs.7 lakhs as compensation, but the Tribunal awarded Rs.15,59,000/-. In this case, the Tribunal had taken the notional income of the deceased at Rs.6,500/- per month, added

50% towards future prospectus, deducted 1/4 towards personal expenses and applied multiplier '16' to award a sum of Rs.14,04,000/- as loss of dependency.

23. We have already held that the amount awarded by the Tribunal in favour of the deceased in MCOP No. 7261 of 2014 corresponding to CMA No. 1535 of 2020 is just and fair. The findings rendered thereon is equally applicable to the present appeal as well. We therefore dismiss this appeal filed by the Insurance Company and confirm the award passed by the Tribunal in favour of the claimants.

CMA No. 1529 of 2020 (MCOP Nos. 7263 of 2014)

24. The deceased in this case is Shanmuga Sundari, who was aged 31 years at the time of her death in the accident. The claimants are her husband and two minor sons. It is claimed that the deceased was a home maker. The claimants claimed a sum of Rs.7,10,000/- as compensation, but the Tribunal awarded Rs.16,21,250/-. In this case, the Tribunal had taken the notional income of the deceased at Rs.6,500/- per month, added 50% towards future prospectus, deducted 1/4 towards personal expenses and applied multiplier '14' to award a sum of Rs.13,16,250/- as loss of dependency. In all, the Tribunal awarded a total sum of Rs.16,21,250/- as compensation.

25. As we have already held that the amount awarded by the Tribunal in favour of the deceased in MCOP No. 7261 of 2014 corresponding to CMA No. 1535 of 2020 is just and fair, the findings rendered thereon is equally applicable to the present appeal as well. We therefore dismissed this appeal filed by the Insurance Company and confirm the award of the Tribunal.

CMA No. 1537 of 2020 (MCOP Nos. 7265 of 2014)

26. The claimant in this case is Minor Tejaswini, who was 3 years old at the time of the death of her father K. Murugan in a Motor Accident. Therefore, she has filed the present Petition in MCOP No. 7265 of 2014. For the death of her mother Avvai Susila, MCOP No. 7261 of 2014 was already filed by her, which corresponds to CMA No. 1535 of 2020. This Original Petition was filed for the death of her father, Murugan.

27. It is claimed on behalf of the claimants that the deceased K.Murugan was 28 years old and working as General Manager in Cistron Infotech Private Limited. It is stated that the deceased was in receipt of Rs.53,338/- per month as salary from his employer. In order to prove the income of the deceased, PW4, who was the General Manager of Cistron Infotech Private Limited, was examined through whom Exs. P49 and P50 were

marked. Ex.P49 is the appointment order in favour of the deceased and Ex.P50 was the confirmation order. Further, the claimants have examined PW5, through whom, the bank statement of the deceased was marked as Ex.P53. Based on the aforesaid documentary evidence, the Tribunal had taken the monthly income of the deceased as Rs.53,400/-.

28. The learned counsel for the appellant strenuously contended that Ex.P6, appointment order was dated 01.10.2006. The deceased died in the accident on 25.12.2006. Thus, the deceased worked only for two months. To show the previous employment of the deceased or the experience he had gained in a particular field for his present appointment as General Manager, no documentary evidence has been filed before the Tribunal. Further, there was no documentary proof to show that the deceased was an assessee under the Income Tax Act. However, the Tribunal had taken the income of the deceased at Rs.53,400/- per month, added 40% towards future prospects, deducted 1/3rd thereof towards personal expenses, applied multiplier '15' and awarded a huge sum of Rs.89,71,200/- towards loss of dependency. The learned counsel for the appellant contended that even the bank statement of the deceased does not reflect his past earnings, while so, he prayed to reduce the compensation amount awarded by the Tribunal.

29. On the above contention, we have heard the learned counsel for the respondent/claimant.

30. In order to prove the earnings of the deceased, the appointment order, Ex.P49 of the deceased was marked through his employer, PW4. The confirmation order given in favour of the deceased was also marked through PW4 under Ex.P50. While so, we are of the view that there is no reason to disbelieve Exs. P49 and P50 marked through PW4.

31. At the same time, we are of the view that when the Tribunal has taken the earnings of the deceased at Rs.53,338/- rounded off to Rs.53,400/-, appropriate deduction ought to have been given towards the liability of the deceased for payment of income tax.

32. During the year 2006, income upto Rs.1,00,000/- per annum is not taxable and income in the range of Rs.1,00,001/- to Rs.1,50,000/- is taxable at the rate of 10% of the total earnings. Similarly, for receipt of income between Rs.1,50,001/- to Rs.2,50,000/- tax is to be paid at the rate of 20% and for income between Rs.2,50,001/- to Rs.5,00,000/- 30% of the amount is taxable. In this case, the Tribunal had taken the yearly income of the deceased at Rs.6,48,000/- and therefore 30% of the amount thereof has to be deducted towards income tax.

Therefore, if Rs.1,94,400/- is deducted towards 30% of the total yearly earnings of the deceased at Rs.6,48,000/-, the earnings of the deceased will come down to (Rs.6,48,000 - Rs.1,94,400) Rs.4,53,600/-. From this amount, 40% has to be added towards future prospects which would come to Rs.1,81,440/- taking the yearly income of the deceased to (Rs.4,53,600 + Rs.1,81,400) Rs.6,35,040/-. If 1/4th deduction is given towards the personal expenses of the deceased, it would come to Rs.1,58,760/-. Thus, the annual total income of the deceased for the purpose of determination of loss of income will be Rs.4,72,680/- (Rs.6,35,040 - Rs.1,58,760). Applying multiplier '16', the total compensation payable to the claimants towards loss of income of the deceased comes to (Rs.4,72,680/- X 16) Rs.76,20,480/- which will be the just and fair amount. Thus, the amount of Rs.89,71,200/- awarded by the Tribunal towards loss of income of the deceased is hereby reduced to Rs.76,20,480/-.

33. The Tribunal also awarded Rs.50,000/- towards Loss of love and affection, Parental consortium of Rs.50,000/-, Rs.10,000/- for medical expenses and Rs.15,000/- towards funeral expenses. The amount awarded under these heads by the Tribunal, in our opinion, are just and fair. Therefore, we do not see any reason to interfere with the same.

34. In effect, the amount awarded by the Tribunal in MCOP No. 7265 of 2014 corresponding to CMA No. 1537 of 2020, is hereby re-calculated as under:-

Loss of income	Rs.76,20,480.00
Loss of Love and Affection	Rs. 50,000.00
Parental consortium	Rs. 50,000.00
Medical Expenses	Rs. 10,000.00
Funeral Expenses	Rs. 15,000.00

Total compensation	Rs.77,45,480.00

35. CMA Nos. 1528, 1536 and 1531 of 2020 arise out of MCOP Nos. 7259, 7266 and 7271 of 2014 respectively. All these Original Petitions have been filed by the claimants for the injuries sustained by them in the accident that had taken place on 25.12.2006. Whether the amount awarded by the Tribunal in the aforesaid Original Petitions are fair and reasonable is to be examined by us.

C.M.A. No. 1528 of 2020 (MCOP No. 7259 of 2014)

36. The claim petition was filed by Minor. Gayathri, aged 17 years at the time of accident. In the accident, the claimant

had sustained fracture of Shaft of Humerus right with Brachial Plexus injury. It is stated that the claimant was admitted at MIOT Hospital, Chennai on 25.12.2006 and discharged on 08.01.2007 after taking treatment for about 13 days. The claim petition was filed claiming a sum of Rs.3,00,000/- as compensation. The Tribunal taking note of the evidence available on record, fixed 20% of disability and awarded Rs.40,000/- at the rate of Rs.2,000/- per percentage of disability. The Tribunal has also awarded various amount towards pain and suffering, transportation, extra nourishment, attendant charges and medical expenses in favour of the claimant. In effect, a total sum of Rs.87,000/- was awarded by the Tribunal.

37. Admittedly, the claimant was aged 17 years at the time of accident and she had taken treatment for the injuries suffered in the accident for 13 days in a private hospital. On the basis of medical evidence adduced, the Tribunal fixed 20% as disability suffered by the claimant. Thus, we find that the amount awarded by the Tribunal under various heads are reasonable and proper. Therefore, we are not inclined to interfere with the award passed by the Tribunal.

C.M.A. No. 1536 of 2020 (MCOP No. 7266 of 2014)

38. This claim petition was filed by the minor, who was aged 3 years at the time of accident. For the injuries sustained in the accident, the claimant was admitted in MIOT Hospital, Chennai on 25.12.2006. A wound certificate was produced before the Tribunal under Ex.P33 to show the nature of injuries sustained by the claimant. Except the wound certificate, the claimant did not produce any other evidence to prove the nature of injuries she suffered or the treatment taken. Therefore, the Tribunal concluded that the claimant had sustained a simple injury and consequently, awarded a sum of Rs.50,000/- as lumpsum compensation. We are of the opinion that the Tribunal is wholly justified in awarding a sum of Rs.50,000/- as lump sum compensation to the claimant, over which we decline to interfere.

CMA No. 1531 of 2020 (MCOP No. 7271 of 2014)

39. The claimant in this case is Balamurugan, who was aged 48 years at the time of accident. At the time of accident, the claimant was working as General Manager in HCL Technologies, Ambattur and earning Rs.12,000/- per annum. It is stated that the claimant sustained multiple ribs fracture, compression of # D9, D11 involving superior & plat. From the claim petition, it is inferred that the claimant had taken treatment in MIOT Hospital, Chennai from 25.12.2006 till 14.02.2007 for about 21 days. It is also seen that the claimant claimed a sum of Rs.7

lakhs as compensation for the injuries he sustained in the accident.

40. The Tribunal, on a perusal of the oral and documentary evidence adduced, had taken the disability of the claimant at 45% and awarded a sum of Rs.90,000/- at the rate of Rs.2,000/- per percentage of disability. The Tribunal also awarded compensation under various other heads, such as, Pain and Suffering, Extra nourishment, transportation, loss of income during the period of treatment etc., and awarded a total sum of Rs.2,71,200/-. The amount includes Rs.25,000/- towards medical expenses and Rs.20,000/- towards loss of income during the period of treatment for two months at the rate of Rs.10,000/- per month. On a overall consideration of the award passed by the Tribunal, we are of the view that the amount awarded as compensation by the Tribunal is just and fair compensation and we see no reason to reduce the same.

41. In the result,

(i) CMA No. 1532 of 2020 is dismissed confirming the Judgment and Decree dated 31.07.2019 passed in MCOP Nos. 7260 of 2014

(ii) CMA No. 1535 of 2020 is dismissed confirming the Judgment and Decree dated 31.07.2019 passed in MCOP No. 7261 of 2014

(iii) CMA No. 1530 of 2020 is dismissed confirming the Judgment and Decree dated 31.07.2019 passed in MCOP Nos. 7262 of 2014

(iv) CMA No. 1529 of 2020 is dismissed confirming the Judgment and Decree dated 31.07.2019 passed in MCOP Nos. 7263 of 2014

(v) CMA No. 1537 of 2020 is partly allowed and the compensation awarded by the Tribunal in MCOP No. 7265 of 2014 is reduced from Rs.90,96,200/- to Rs.77,45,480.00/-.

(vi) The appellant Insurance Company is directed to deposit the compensation amount as determined by us in CMA Nos. 1532, 1535, 1530, 1529 and 1537 of 2020 to the credit of the respective Claim Petitions in MCOP Nos. 7260, 7261, 7262, 7263 and 7265 of 2014 on the file of the II Court of Small Causes, Chennai within a period of eight weeks, after adjusting the amount already deposited, if any, with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit. On such deposit, the claimants are entitled to withdraw the entire compensation amount, with accrued interest,

as apportioned by the Tribunal. The compensation payable to the minor (s) claimant is directed to be deposited in a Nationalised Bank in an interest bearing account. Till such time the minor attains majority, the father or legal guardian, as the case may be, shall withdraw the interest alone once in three months for the welfare of the minor (s).

(vii) CMA Nos. 1528, 1536 and 1531 of 2020 are allowed by setting aside the Judgment and Decree dated 31.07.2019 passed in MCOP No. 7259, 7266 and 7271 of 2014 respectively in so far as they relate to fastening the liability on the Insurance Company to pay compensation to the claimants. In other words, the appellant Insurance Company is exonerated from their liability to pay compensation to the claimants in MCOP Nos. 7259, 7266 and 7271 of 2014.

(viii) As we have exonerated the appellant Insurance Company from paying the compensation amount to the claimants in MCOP Nos. 7259, 7266 and 7271 of 2014, it is open to the claimants to recover the compensation amount payable to them from the owner/first respondent in these appeals in the same proceedings.

(ix) The appellant-Insurance Company is permitted to withdraw the compensation amount, if any, deposited by them to the credit of MCOP Nos. 7259, 7266 and 7271 of 2014 on the file of II Court of Small Causes, Chennai with accrued interest.

(x) No costs. Consequently, all the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rsh/cs
To

The Presiding Officer,
II Court of Small Causes,
Chennai.

+1cc to M/s.J.Chandran, Advocate Sr.36920

CMA Nos. 1528 to 1532 and 1535,
1536 and 1537 of 2020 etc.,

cnr[co]
srg 28/12/2020