

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.09.2020

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.Nos.1641 to 1643 of 2014

S.Kanagavalli ... Appellant in CMA.No.1641 of 2014
Valarmathi ... Appellant in CMA.No.1642 of 2014
Vennila @ Samuthiravalli ... Appellant in CMA.No.1643 of 2014

Vs.

1.Anbumani
2.V.Sekar
3.The Branch Manager,
The New India Assurance Co., Ltd.,
No.149, Bharathiyar Road,
Karaikal Town and munsif.
4.M.Aruldass
5.M.Ahamed Bahahudeen
6.The Branch Manager,
United India Insurance Co., Ltd.,
No.2, Church Street,
Karaikal Town and Munsif ... Respondents in all CMAs.

Common Prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the Award dated 20.11.2013 in MCOP.Nos.107, 111 & 113 of 2012 on the file of the Motor Accident Claims Tribunal, (District-Judge) at Karaikal.

For Appellant in all CMAs. : Mr.T.Sai Krishnan
for M/s. Sai Bharath and Ilan

For Respondent 3 in all CMAs. : Mr.J.Chandran

For Respondent 6 in all CMAs. : Mr.M.J.Vijayaraghavan

COMMON JUDGMENT

[These Appeals have been taken up for hearing through Video Conferencing]

Challenging the common award dated 20.11.2013 passed by the Motor Accident Claims Tribunal (District Judge, Karaikal) in MCOP.Nos.107, 111 & 113 of 2012, the respective Appellant who are the claimants have preferred these appeals namely CMA.No.1641, 1642 & 1643 of 2014.

2. Heard Mr.T.Sai Krishnan learned counsel representing M/s.Sai Bharath and Ilan, learned counsel for the Appellant, Mr.J.Chandran learned counsel for the third respondent and Mr.Mr.M.J.Vijayaraghavan, learned counsel for the sixth respondent.

3. All the three claimants sustained injuries as a result of an accident caused due to the collusion of two vehicles, one owned by the second respondent and insured with the third respondent and the other owned by the fifth respondent and insured with the sixth respondent.

4. The Appellant in CMA.No.1641 of 2014 sustained dislocation of his right hip, the Appellant in CMA.No.1642 of 2014 sustained simple injuries with no permanent disability and the Appellant in CMA.No.1643 of 2014 sustained deformity of his left wrist as a result of the accident.

5. The Appellant in CMA.No.1641 of 2014 filed MCOP.No.107 of 2012, the Appellant in CMA.No.1642 of 2014 filed MCOP.No.111 of 2012 and the Appellant in CMA.No.1643 of 2014 filed MCOP.No.113 of 2012 before the Motor Accident Claims Tribunal (District Judge, Karaikal) seeking compensation for the injuries sustained by them.

6. The Motor Accident Claims Tribunal under a common award dated 20.11.2013 passed in MCOP.Nos.107, 111 & 113 of 2012 fixed the contributory negligence on the vehicle owned by the second respondent and insured with the third respondent as well as on the vehicle owned by the fifth respondent and insured with the sixth respondent at 50:50 ratio.

7. The Tribunal awarded a sum of Rs.55,435/- as compensation together with interest and costs to the Appellant in CMA.No.1641 of 2014 in the following manner:

<i>Heads</i>	<i>Award Amount (Rs.)</i>
Pain and suffering	25,000/-
For extra nourishment	5,000/-
For transport expenses	10,300/-
For permanent partial disability	10,000/-
For medical expenses	2,135/-
For loss of income	3,000/-
Total	55,435/-

8. The Tribunal awarded a sum of Rs.25,000/- as compensation together with interest and costs to the Appellant in CMA.No.1642 of 2014 on lumpsum basis.

9. The Tribunal awarded a sum of Rs.83,184/- as compensation together with interest and costs to the Appellant in CMA.No.1643 of 2014 in the following manner:

<i>Heads</i>	<i>Award Amount (Rs.)</i>
For pain and suffering	25,000/-
For extra nourishment	5,000/-
For transport expenses	9,000/-
For permanent partial disability	20,000/-
For medical expenses	19,184/-
For loss of income	5,000/-
Total	83,184/-

10. Aggrieved by the quantum of compensation awarded by the Tribunal under the impugned common award, the respective claimants in MCOP.Nos.107, 111 & 113 of 2012 have preferred these appeals before this Court.

11. Admittedly, the Appellant in CMA.No.1641 of 2014 & CMA.No.1643 of 2014 alone suffered disability as a result of the injuries sustained by them due to the accident. The Doctor assessed the disability of the Appellant in CMA.No.1641 of 2014 at 10% and a disability certificate has also been marked as Ex.P45 before the Tribunal. The Tribunal has awarded a Disability compensation of Rs.10,000/- to the Appellant in CMA.No.1641 of 2012 calculated at Rs.1,000/- per percentage of disability for the 10% disability suffered by him. The year of the accident is 2011. It is settled practice for an accident that has taken place in the year 2011, the assessment of disability compensation is calculated at Rs.2,000/- per percentage of disability. Therefore, the Tribunal has erroneously assessed the disability compensation at Rs.10,000/- calculated at Rs.1,000/- per percentage of disability instead of Rs.20,000/- calculated at Rs.2,000/- per percentage of disability. Accordingly, the disability compensation for the Appellant in CMA.No.1641 of 2014 is enhanced by this Court to Rs.20,000/- instead of Rs.10,000/- fixed by the Tribunal.

12. The Tribunal has awarded a compensation of Rs.25,000/- towards pain and suffering, Rs.5,000/- towards extra

nourishment, Rs.10,300/- towards transport expenses, Rs.2,135/- towards medical expenses and Rs.3,000/- towards loss of income during the period of treatment to the Appellant in CMA.No.1641 of 2014. With regard to the said compensation awarded by the Tribunal, it is a just compensation and there is no scope for interference by this Court.

13. Excepting for enhancement of disability compensation, the compensation awarded by the Tribunal under various other heads is a just compensation. For the foregoing reasons, the compensation awarded by the Tribunal to the Appellant/claimant in CMA.No.1641 of 2014 is enhanced from Rs.55,435/- to Rs.65,435/- together with interest and cost as detailed hereunder:

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Modified Award Amount (Rs.)</i>
Pain and suffering	25,000/-	25,000/-
For extra nourishment	5,000/-	5,000/-
For transport expenses	10,300/-	10,300/-
For permanent partial disability	10,000/-	20,000/-
For medical expenses	2,135/-	2,135/-
For loss of income	3,000/-	3,000/-
Total	55,435/-	65,435/-

14. With regard to the compensation awarded by the Tribunal to the Appellant in CMA.No.1642 of 2014 is concerned, the Appellant has suffered only simple injuries and he has not suffered any disability. In such circumstances, this Court is of the considered view that the compensation awarded by the Tribunal to the Appellant/claimant in CMA.No.1642 of 2014 is a just compensation and does not call for any interference by this Court.

15. With regard to the third claim petition made by the Appellant in CMA.No.1643 of 2014 is concerned, the Tribunal has awarded a total compensation of Rs.83,184/- together with interest and costs to the said Appellant as detailed supra.

16. Admittedly, the Appellant in CMA.No.1643 of 2014 has sustained grievous injuries. The Doctor who has assessed the

Appellant in CMA.No.1643 of 2014 has assessed his disability at 20%. The Tribunal accepted the said disability at 20% and assessed the disability compensation at 20,000/- calculated at Rs.1,000/- per percentage of disability. Since the year of the accident is 2011, as observed by this Court in CMA.No.1641 of 2014, the Appellant/claimant in this case also is entitled for a higher compensation i.e., Rs.2,000/- per percentage of disability towards 20% disability suffered by him. Accordingly, the disability compensation is assessed by this Court at Rs.40,000/- calculated at Rs.2,000/- per percentage of disability instead of Rs.1,000/- per percentage of disability fixed by the Tribunal.

17. As in the previous case namely CMA.No.1641 of 2014, the compensation awarded by the Tribunal under various other heads namely pain and suffering, extra nourishment, transport expenses, medical expenses and loss of income during the period of treatment awarded by the Tribunal is a just compensation and there is no scope for interference by this Court. Accordingly, the compensation awarded by the Tribunal to the Appellant/claimant in CMA.No.1643 of 2014 is enhanced from Rs.83,184/- to Rs.1,03,184/- together with interest and costs as detailed hereunder:

Heads	Amount awarded by the Tribunal (Rs.)	Modified Award Amount (Rs.)
For pain and suffering	25,000/-	25,000/-
For extra nourishment	5,000/-	5,000/-
For transport expenses	9,000/-	9,000/-
For permanent partial disability	20,000/-	40,000/-
For medical expenses	19,184/-	19,184/-
For loss of income	5,000/-	5,000/-
Total	83,184/-	1,03,184/-

Conclusion:

18. In the result, CMA.No.1641 of 2014 is partly allowed by enhancing the compensation from Rs.55,435/- to Rs.65,435/- and CMA.No.1643 of 2014 is partly allowed by enhancing the compensation from Rs.83,184/- to Rs.1,03,184/- and CMA.No.1642 of 2014 is dismissed. However, the rate of interest fixed by the Tribunal at 7.5% is confirmed. The third and sixth respondents

are directed to deposit the modified award amount in CMA.Nos.1641 & 1643 of 2014 and also directed to deposit the amount awarded by the Tribunal in MCOP.No.111 of 2012 together with interest from the date of claim till the date of deposit and costs after deducting the amount already deposited if any to the credit of MCOP.Nos.107, 111 & 113 of 2012 within a period of four weeks from the date of receipt of a copy of this common judgment. On such deposit being made, the Tribunal is directed to transfer the respective award amount along with accrued interest lying to the credit of MCOP.Nos.107, 111 & 113 of 2012 to the bank accounts of the respective Appellant/claimant through RTGS within a period of two weeks thereafter. No costs.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The Motor Accident Claims Tribunal,
(District Judge), Karaikal.

Copy to : The Section Officer, V.R.Section,
High Court of Madras, Chennai.

+1cc to Mr.J.Chandran, Advocate SR.NO..28759

AKM/28.04.21/6P- 4C/

C.M.A.Nos.1641 to 1643 of 2014
03.09.2020

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