



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2021

CORAM:

THE HON'BLE Mr. JUSTICE D.KRISHNAKUMAR

C.M.A.Nos.674 to 680

&

682 to 685 of 2009

and

CMP.No.17177 of 2017

G.Suresh Babu ... Appellant in CMA.No.674/2009

S.Mohan Raj (minor)
Rep.by his father and next friend
G.Suresh Babu ... Appellant in CMA.No.675/2009

V.Dinesh Babu (Minor)
Rep.by his father and next friend
K.Vasu ... Appellant in CMA.No.676/2009

V.Shobana (Minor)
Rep.by his father and next friend
K.Vasu ... Appellant in CMA.No.677/2009

K.Vasu ... Appellant in CMA.No.678/2009

V.Lalitha ... Appellant in CMA.No.679/2009

S.Neelavathi ... Appellant in CMA.No.680/2009

G.Mohan Raj ... Appellant in CMA.No.682/2009

R.Santhi ... Appellant in CMA.No.683/2009

R.Suriya Narayanan (Minor)
Rep.by his mother and next friend
R.Santhi ... Appellants in CMA.No.684/2009

G.Kantha ... Appellant in CMA.No.685/2009



..Vs..

1.A.Mary Rani

2.The Oriental Insurance Co.Ltd.,
United India Building
Esplanade, Chennai.

... Respondents in all CMAs

COMMON PRAYER: Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the common judgment and decree in M.C.O.P.Nos.2590, 2702, 2591, 2659, 2720, 2646, 2687, 2644, 2745, 2769 and 2750 of 2004 respectively, dated 29.04.2008 on the file of the II Judge, Small Causes Court, (Motor Accidents Claims Tribunal), Chennai and praying to set aside the same.

For Appellants in
all CMAs : Mr.K.A.Ravindran
For Respondents
in all CMAs : R1- Notice unserved
Mr.A.Arunkumar for R2

COMMON JUDGMENT

These Civil Miscellaneous Petitions have filed against the common judgment and decree in M.C.O.P.Nos.2590, 2702, 2591, 2659, 2720, 2646, 2687, 2644, 2745, 2769 and 2750 of 2004 respectively, dated 29.04.2008 on the file of the II Judge, Small Causes Court, (Motor Accidents Claims Tribunal), Chennai.

2. It is the case of the claimants that on 25.01.2004 at about 3.30 pm the claimants were travelling as passengers in a Van bearing Reg.No.TN-07-M-3472, which was insured with the 2nd respondent-Insurance Company, on Trichy-Chennai Road. The driver drove the Van in a rash and negligent manner and dashed on the back side of the Standing Bus bearing Reg.No.TN-32-N-1365, thus, causing grievous injuries to all the claimants and one Ravi sustained fatal injuries. The Tribunal granted various amounts as compensation to each of the claimants and seeking enhancement of the respective amounts, the present appeals have been filed seeking a sum of Rs.2,00,000/- as compensation.

3. The learned counsel for the second respondent Insurance Company submitted that there is no negligence on the part of the driver of the Van. The accident occurred only due to the driver of the Bus belonging to the Tamil Nadu State Corporation, who had stopped the Bus suddenly without giving any signal. Hence, the Van slightly hit on the backside of the bus. Since the



driver of the Tamil Nadu State Corporation Bus alone was responsible for the accident, the claimants are entitled to claim compensation only against them. He further submitted that the driver of the first respondent had no valid driving licence, which amounts to violation of policy condition. Hence, the Insurance Company is not liable to pay compensation.

4. In order to prove the claim, the claimants examined themselves as PW1 to PW4, PW6 to PW8 and the Doctors who examined the claimants were examined as PW9 to PW12 and 50 documents were marked as Exs.P1 to P50. Court Summon was marked as Ex.C1. On the side of the Insurance Company neither any oral evidence was adduced nor documents were marked.

5. The Tribunal after analysing the entire evidence came to the conclusion that the accident was solely due to the rash and negligent act of the driver of the first respondent's Van and awarded compensation. The Tribunal further directed the respondent Insurance Company to pay the compensation amount to the claimants.

6. Now, it is the submission of the learned counsel for the appellants / claimants that the Tribunal has awarded only a very meager amount to the claimants without considering the grievous sustained by the them and the amount they spent on treatment. Hence, the appellants have preferred the present appeals before this Court.

7. It is the further submission of the learned counsel for the appellants that the accident occurred on 25.01.2004 and after nearly four years, the Tribunal passed a common order on 29.04.2008. But still, the appellants could not get any compensation.

8. The learned counsel for the second respondent/ Insurance Company submitted on perusal of the award passed by the Tribunal, it is clear that the Judge of Court of Small Causes has passed the order only after considering the nature of injury of the claimants, medical certificates and the evidences. Hence, there is no need to increase the compensation now and he strongly objected for any enhancement compensation.

9. But after elaborate discussion, he fairly submitted that reasonable amount can be fixed by the Court as one time settlement and to that extent the learned counsel for the appellants also accepted.



10. Considering the rival submissions of the parties and perusing the materials on record, this Court deems it fit to fix a reasonable compensation amounts by enhancing the award amounts passed by the Tribunal.

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11. Accordingly, taking into consideration the fact that the MCOPs are of the year 2004, this Court is of the view that these appeals could be disposed of by awarding consolidated amount of Rs.15,000/- is awarded over and above the respective amounts granted by the Tribunal to each of the appellants/claimants including interest in the respective appeals.

12. The amount awarded by the Tribunal in each case and the compensation enhanced by this Court in the respective appeals are tabulated below:

Sl. Nos	M.C.O.P.Nos.	C.M.A.Nos.	Amount awarded by the Tribunal	Amount enhanced by this Court	Present compensation to be paid to the claimants
1.	MCOP.No.2590/2004	CMA.No.674/2009	Rs.24,000/-	Rs.15,000/-	Rs.39,000/-
2.	MCOP.No.2702/2004	CMA.No.675/2009	Rs.21,500/-	Rs.15,000/-	Rs.36,500/-
3.	MCOP.No.2591/2004	CMA.No.676/2009	Rs.21,500/-	Rs.15,000/-	Rs.36,500/-
4.	MCOP.No.2659/2004	CMA.No.677/2009	Rs.21,500/-	Rs.15,000/-	Rs.36,500/-
5.	MCOP.No.2720/2004	CMA.No.678/2009	Rs.37,000/-	Rs.15,000/-	Rs.52,000/-
6.	MCOP.No.2646/2004	CMA.No.679/2009	Rs.26,500/-	Rs.15,000/-	Rs.41,500/-
7.	MCOP.No.2687/2004	CMA.No.680/2009	Rs.21,500/-	Rs.15,000/-	Rs.36,500/-
8.	MCOP.No.2644/2004	CMA.No.682/2009	Rs.34,000/-	Rs.15,000/-	Rs.49,000/-
9.	MCOP.No.2745/2004	CMA.No.683/2009	Rs.26,500/-	Rs.15,000/-	Rs.41,500/-
10.	MCOP.No.2769/2004	CMA.No.684/2009	Rs.21,500/-	Rs.15,000/-	Rs.36,500/-



Sl. Nos	M.C.O.P.Nos.	C.M.A.Nos.	Amount awarded by the Tribunal	Amount enhanced by this Court	Present compensation to be paid to the claimants
11.	MCOP.No.2750 /2004	CMA.No.685 /2009	Rs.26,500/-	Rs.15,000/-	Rs.41,500/-

13. Thus, the Civil Miscellaneous Appeals are partly allowed by enhancing the compensation amounts awarded by the Tribunal, as indicated above, including interest. The second respondent/ Insurance Company is directed to deposit the respective award amounts as determined above, less the amounts if any already deposited, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit being made, the claimants are permitted to withdraw their respective award amounts, less the amount if any already withdrawn by filing necessary application before the Tribunal. The appellants/claimants are directed to pay necessary Court fee, if any, on the enhanced compensation amounts. In case there are any minor claimants their shares shall be deposited by the Tribunal in any Fixed Deposit Scheme in any one of the Nationalised Banks and it shall be renewed periodically until, they attain majority and the interest accrued thereon shall be withdrawn by the mother or father, as the case may be, once in three months. No costs. Consequently, connected Miscellaneous Petition is also closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

dna
To

1.The II Judge, Small Causes Court,
(Motor Accidents Claims Tribunal),
Chennai.

2.The Oriental Insurance Co.Ltd.,
United India Building
Esplanade, Chennai.



Copy to:

The Section Officer,
VR Section, High Court,
Madras.

+1cc to M/s.S.Arunkumar, Advocate Sr.7925

+1cc to M/s.A.Shanmugaraj, Advocate Sr.8436

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and
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srg 21/01/2022