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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.M.A.Nos.1001 to 1004 of 2012

CMA.No.1001 of 2012:

Ellamma

...Appellant/Petitioner

Versus

1.Mohideen

2.New India Assurance Co.Ltd.,
rep. by its Manager, Branch Office,
Bye pass Road, Hosur,
Dharmapuri District

...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the decree and judgment dated 31.03.2006 made in M.C.O.P.No.69 of 2001 on the file of the Motor Accidents Claims Tribunal, Sub Court, Hosur insofar as the disallowed portion of Rs.1,79,000/- (Restricted to Rs.65,000/- in this appeal) alone.

CMA.No.1002 of 2012:

Maramma

..Appellant/Petitioner

Versus

1.Mohideen

2.New India Assurance Co.Ltd.,
rep. by its Manager, Branch Office,
Bye pass Road, Hosur,
Dharmapuri District

...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the decree and judgment dated 31.03.2006 made in M.C.O.P.No.71 of 2001 on the file of the Motor Accidents Claims Tribunal, Sub Court, Hosur insofar as the disallowed portion of Rs.87,000/- alone.



CMA.No.1003 of 2012:

P.Ramakka

...Appellant/Petitioner

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Versus

1.Mohideen

2.New India Assurance Co.Ltd.,
rep. by its Manager, Branch Office,
Bye pass Road, Hosur,
Dharmapuri District

...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the decree and judgment dated 31.03.2006 made in M.C.O.P.No.72 of 2001 on the file of the Motor Accidents Claims Tribunal, Sub Court, Hosur insofar as the disallowed portion of Rs.1,79,000/- alone.

CMA.No.1004 of 2012:

Chinnamma

...Appellant/Petitioner

Versus

1.Mohideen

2.New India Assurance Co.Ltd.,
rep. by its Manager, Branch Office,
Bye pass Road, Hosur,
Dharmapuri District

...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the decree and judgment dated 31.03.2006 made in M.C.O.P.No.73 of 2001 on the file of the Motor Accidents Claims Tribunal, Sub Court, Hosur insofar as the disallowed portion of Rs.1,35,000/- alone.

For Appellant
in all CMA's : Mr.V.Kumaravelan



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For Respondents
in all CMA's

For R2 : Mrs.C.Sangamithirai

R1 : Exparte

COMMON J U D G M E N T

These appeals have been laid as against the judgment and decree dated 31.03.2006 made in M.C.O.P.Nos.69, 71 to 73 of 2001 on the file of the Motor Accidents Claims Tribunal, Sub Court, Hosur.

2. For the sake of convenience, the parties are referred to hereunder according to their litigative status before the Tribunal.

3. Heard Mr.V.Kumaravelan, learned counsel appearing for the appellants / claimants and Mrs.C.Sangamithirai, learned counsel appearing for the second respondent herein.

4. It is seen that all the claimants traveled as cooli in the lorry owned by the first respondent and its driver drove in a rash and negligent manner and the accident took place. Due to the said accident, all the claimants were thrown out of the lorry and sustained grievous injuries. The Tribunal awarded compensation to be payable by the first respondent for the reason that the policy does not cover unauthorised passengers. Admittedly, all the claimants traveled in the goods vehicle. The policy issued by the second respondent does not cover unauthorised passengers traveled in a goods vehicle. Therefore, the Tribunal rightly awarded compensation as against the first respondent i.e. the owner of the vehicle. As such this Court finds no infirmity or illegality in the orders passed by the court below. Accordingly, all the appeals are dismissed insofar as liability is concerned.

5. Insofar as quantum of compensation is concerned, for the claimant in CMA.No.1001 of 2012, the Tribunal awarded a sum of Rs.71,000/- as compensation. The claimant sustained following injuries:

- (i) A contusion of 3 cm dia seen over the left eye
- (ii) 3 tooth fell down (lower side)
- (iii) Right fore arm fracture



- (iv) Pain over left side of the head
- (v) Injury over Ribs on both side and multiple injuries all over the body
- (vi) Multiple and grievous injuries all over the body

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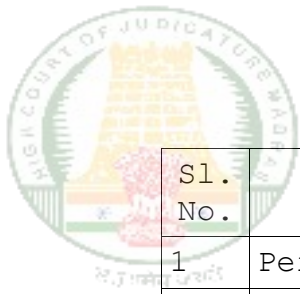
5.1 The doctor assessed the disability at 30% as permanent disability. The Tribunal failed to award compensation for a sum of Rs.2,000/- per percentage for her disability. Therefore, this Court is inclined to award a sum of Rs.60,000/- towards permanent disablement and Rs.10,000/- towards extra nourishment, transport and medical expenditure. Accordingly the compensation awarded by the Tribunal in MCOP.No.69 of 2001 stands modified as under :-

Sl. No.	Head	Amount awarded by the Tribunal	Amount awarded by this Court
1	Permanent disability	Rs.30,000/-	Rs.60,000/-
2	Pain and suffering	Rs.35,000/-	Rs.35,000/-
3	Loss of income	Rs.3,000/-	Rs.3,000/-
4	Extra nourishment, transport and medical expenditure	Rs.3,000/-	Rs.10,000/-
	Total	Rs.71,000/-	Rs.1,08,000/-

6. Insofar as quantum of compensation is concerned, for the claimant in CMA.No.1002 of 2012, the Tribunal awarded a sum of Rs.73,000/- as compensation. The claimant sustained following injuries:

- (i) Lacerated injury of 3 x ½ cm muscle deep see over the middle of the vertex bleeding
- (ii) C/o.Pain over the Rt.side of the Chest and Rt Side of the abdomen
- (iii) C/o.Pain over the lumbar region

6.1 The doctor assessed the disability at 30% as permanent disability. The Tribunal failed to award compensation for a sum of Rs.2,000/- per percentage for permanent disability. Therefore, this Court is inclined to award a sum of Rs.60,000/- towards permanent disablement. Accordingly the compensation awarded by the Tribunal in MCOP.No.71 of 2001 stands modified as under :-



Sl. No.	Head	Amount awarded by the Tribunal	Amount awarded by this Court
1	Permanent disability	Rs.30,000/-	Rs.60,000/-
2	Pain and suffering	Rs.35,000/-	Rs.35,000/-
3	Loss of income	Rs.3,000/-	Rs.3,000/-
4	Extra nourishment, transport and medical expenditure	Rs.5,000/-	Rs.10,000/-
	Total	Rs.73,000/-	Rs.1,08,000/-

7. Insofar as quantum of compensation is concerned, for the claimant in CMA.No.1003 of 2012, the Tribunal awarded a sum of Rs.71,000/- as compensation. The claimant sustained following injuries:

- (i) Lacerated injury over the middle of vertex
- (ii) Fracture of L4 vertebral bone
- (iii) Injury min the Right side of the chest and right side of the abdomen
- (iv) Injury in lumbar region

7.1 Due to injuries sustained by her, she had taken treatment in various hospitals. Finally she was admitted in Victoria Hospital, Bangalore, where she had taken treatment as inpatient for 43 days. The doctor assessed the disability at 40% as permanent disability. Accordingly the compensation awarded by the Tribunal in MCOP.No.72 of 2001 stands modified as under :-

Sl. No.	Head	Amount awarded by the Tribunal	Amount awarded by this Court
1	Permanent disability	Rs.35,000/-	Rs.80,000/-
2	Pain and suffering	Rs.25,000/-	Rs.50,000/-
3	Loss of income	Rs.5,000/-	Rs.5,000/-
4	Medical expenditure	Rs.1,300/-	Rs.1,300/-
5	Extra nourishment and transportation	Rs.4,700/-	Rs.10,000/-
	Total	Rs.71,000/-	Rs.1,46,300/-

8. Insofar as quantum of compensation is concerned, for the claimant in CMA.No.1004 of 2012, the Tribunal awarded a sum of Rs.65,000/- as compensation. The claimant sustained following injuries:



(i) A contusion of 2 cm dia seen over the 1/3 of left clavicle.

Fracture of middle 1/3 clavicle

(ii) An abrasion of ½ x ½ cm seen over the left elbow joint

(iii) C/o.pain over the lower 1/3rd of RT Fore Arm

(iv) Fracture on left side rib

8.1 The doctor assessed the disability at 25% as permanent disability. The Tribunal failed to award compensation for a sum of Rs.2,000/- per percentage for her disability. Therefore, this Court is inclined to award a sum of Rs.50,000/- towards permanent disablement. Accordingly the compensation awarded by the Tribunal in MCOP.No.73 of 2001 stands modified as under :-

Sl. No.	Head	Amount awarded by the Tribunal	Amount awarded by this Court
1	Permanent disability	Rs.35,000/-	Rs.50,000/-
2	Pain and suffering	Rs.25,000/-	Rs.25,000/-
3	Loss of income	Rs.3,000/-	Rs.5,000/-
4	Extra nourishment, transportation	Rs.2,000/-	Rs.10,000/-
	Total	Rs.65,000/-	Rs.90,000/-

9. In the result the Civil Miscellaneous Appeals are partly allowed as follows:-

(i) The award passed by the Tribunal are modified from Rs.71,000/- to Rs.1,08,000/- in MCOP.No.69 of 2001, Rs.73,000/- to Rs.1,08,000/- in MCOP.No.71 of 2001, Rs.71,000/- to Rs.1,46,300/- in MCOP.No.72 and Rs.65,000/- to Rs.90,000/- in MCOP.No.73 of 2001.

(ii) The award amount will carry the interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit.

(iii) The first respondent herein is directed to deposit the award amount, less the amount, if any, already deposited, along with accrued interest within a period of six weeks from the date of receipt of copy of this Judgment.

(iv) On such deposit, the appellants / claimants are permitted to withdraw the amount awarded as above by filing proper application before the Tribunal.

(v) The appellants/claimants are not entitled to any interest for the condoned delay (default) period, if any.



(vi) The appellants / claimants shall pay requisite Court fee before the receipt of the copy of the judgment for the enhanced compensation.

(vii) There shall be no order as to costs.

s/d-
Assistant Registrar

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Sub-Assistant Registrar

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To

1.The Subordinate Judge,
Motor Accidents Claims Tribunal,
Hosur

2.The Section Officer,
V.R.Section,
Madras High Court,
Chennai.

+1 CC to Mr.V.Kumaravelan, Advocate sr 25811

+1 CC to M/s.C. Sangamithirai, Advocate sr 25778.

C.M.A.Nos.1001 to 1004 of 2012

SPD(CO)
SP(06/12/2021)