

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	11.02.2021
Date of Judgment	12.05.2021

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THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI
C.M.A(MD)Nos.777 to 781 of 2015

(1) .CMA (MD) No.777 of 2015:-

PL Senthilnathan : Appellant/Petitioner

Vs.

- 1.Velmurugan
- 2.The Manager,
New India Assurance Company Ltd.,
Mount Road Branch,
Chennai-600 002.
- 3.M.Ramu
- 4.The Manager,
Oriental Insurance Company Limited,
T.S No.3217, Keelaraja Street,
Pudukottai.
- 5.The Managing Director,
Tamil Nadu Government Transport Corporation,
City Bus Branch Office,
Chennai. .

: Respondents/Respondents

PRAYER:- Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 against the award passed by the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Pudukottai, made in MCOP No.298 of 1999, dated 14.09.2006.

For Appellant	: Mrs.AL.Ganthimathi
For 1 st Respondent	: No appearance
For 2 nd Respondent	: Mr.J.S.Murali
For 3 rd Respondent	: Mr.J.Anandhakumar
For 4 th Respondent	: Mr.K.Bhaskaran
For 5 th Respondent	: Mr.D.Sivaraman

(2) .CMA (MD) No.778 of 2015:-

Smt.Meenal : Appellant/Petitioner

Vs.

- 1.Velmurugan,
<https://hcservices.ecourts.gov.in/hcservices/>
Proprietor, PCW 9414 Van.



2.The Manager,
New India Assurance Company Ltd.,
Mount Road Branch,
Chennai-600 002.

3.M.Ramu

4.The Manager,
Oriental Insurance Company Limited,
T.S No.3217, Keelaraja Street,
Pudukottai.

5.The Managing Director,
Tamil Nadu Government Transport Corporation,
City Bus Branch Office,
Chennai. .

: Respondents/Respondents

PRAYER:- Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 against the award passed by the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Pudukottai, made in MCOP No.299 of 1999, dated 14.09.2006.

For Appellant	: Mrs.AL.Ganthimathi
For 1 st Respondent	: No appearance
For 2 nd Respondent	: Mr.J.S.Murali
For 3 rd Respondent	: Mr.J.Anandhakumar
For 4 th Respondent	: Mr.K.Bhaskar
For 5 th Respondent	: Mr.D.Sivaraman

(3) .CMA(MD)No.779 of 2015:-

M.Meenakshi : Appellant/Petitioner

Vs.

1.Velmurugan,
Proprietor, PCW 9414 Van.

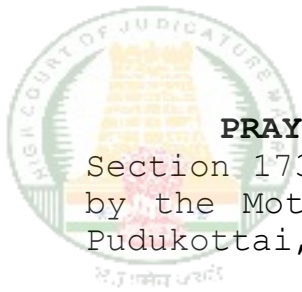
2.The Manager,
New India Assurance Company Ltd.,
Mount Road Branch,
Chennai-600 002.

3.M.Ramu

4.The Manager,
Oriental Insurance Company Limited,
T.S No.3217, Keelaraja Street,
Pudukottai.

5.The Managing Director,
Tamil Nadu Government Transport Corporation,
City Bus Branch Office,
Chennai. .

: Respondents/Respondents



PRAYER:- Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 against the award passed by the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Pudukottai, made in MCOP No.300 of 1999, dated 14.09.2006.

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For Appellant	: Mrs.AL.Ganthimathi
For 1 st Respondent	: No appearance
For 2 nd Respondent	: Mr.J.S.Murali
For 3 rd Respondent	: Mr.J.Anandhakumar
For 4 th Respondent	: Mr.K.Bhaskaran
For 5 th Respondent	: Mr.D.Sivaraman

(4) .CMA (MD) No.780 of 2015:-

M.Ramu : Appellant/Petitioner

Vs.

1.Velmurugan,
Proprietor, PCW 9414 Van.

2.The Manager,
New India Assurance Company Ltd.,
Mount Road Branch,
Chennai-600 002.

3.The Manager,
Oriental Insurance Company Limited,
T.S No.3217, Keelaraja Street,
Pudukottai.

4.The Managing Director,
Tamil Nadu Government Transport Corporation,
City Bus Branch Office,
Chennai. .

: Respondents/Respondents

PRAYER:- Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 against the award passed by the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Pudukottai, made in MCOP No.301 of 1999, dated 14.09.2006.

For Appellant	: Mrs.AL.Ganthimathi
For 1 st Respondent	: No appearance
For 2 nd Respondent	: Mr.J.S.Murali
For 3 rd Respondent	: Mr.K.Bhaskaran
For 4 th Respondent	: Mr.D.Sivaraman

(5) .CMA (MD) No.781 of 2015:-

V.Subramanian : Appellant/Petitioner

Vs.

1.Velmurugan,
Proprietor, PCW 9414 Van.



2.The Manager,
New India Assurance Company Ltd.,
Mount Road Branch,
Chennai-600 002.

3.M.Ramu

4.The Manager,
Oriental Insurance Company Limited,
T.S No.3217, Keelaraja Street,
Pudukottai.

5.The Managing Director,
Tamil Nadu Government Transport Corporation,
City Bus Branch Office,
Chennai. .

: Respondents/Respondents

PRAYER:- Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 against the award passed by the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Pudukottai, made in MCOP No.302 of 1999, dated 14.09.2006.

For Appellant	: Mrs.AL.Ganthimathi
For 1 st Respondent	: No appearance
For 2 nd Respondent	: Mr.J.S.Murali
For 3 rd Respondent	: Mr.J.Anandhakumar
For 4 th Respondent	: Mr.K.Bhaskaran
For 5 th Respondent	: Mr.D.Sivaraman

COMMON JUDGMENT

These Civil Miscellaneous Appeals have been filed challenging the common award passed by the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Pudukottai, dated 14.09.2006 made in MCOP Nos.298 to 302 of 1999, respectively.

2.The brief facts of the case is that on 02.10.1998, the claimants in all the claim petitions were travelling in the Ambassador Car TN-55-P-6162 towards Chennai and at 5.15 pm and when they were proceedings from Chrompet to Merina Beach, the Car TCW-9414 came in a rash and negligent manner and lost control and hit in the centre median of G.S.T Road and thereafter, dashed against the Ambassador Car, where the claimants were travelling as passengers. In that accident, the claimants have sustained injuries. The claimants have filed separate claim petition seeking compensation of Rs.2,00,000/- for the injuries sustained in the accident.

3.In the counter filed by the New India Assurance Company, Oriental Insurance Company and the Tamil Nadu Government Transport Corporation, they disputed the manner of accident and their liability to pay compensation.

4.Before the tribunal, on the side of the claimants, 6 witnesses were examined and marked 12 documents. On the side of the



Insurance Company, 1 witness was examined and 10 documents were marked.

5.The Tribunal, on consideration of oral and documentary evidence adduced by the parties, came to the conclusion that the driver of the offending vehicle has caused the accident and awarded compensation of Rs.6,000/- together with interest @ 7.5% p.a, to the claimants in respect of MCOP Nos.298, 299, 301 and 302 of 1999 and Rs.48,140/- in respect of MCOP No.300 of 1999 directing the first respondent/owner of the offending vehicle to pay the compensation and dismissed the claim petitions in respect of the respondents 2 to 4. Being not satisfied with the award of the tribunal, the claimants are before this court for enhancement of compensation.

6.Heard both sides and perused the materials available on record.

7.The learned counsel for the appellants/claimants mainly argued that the tribunal erred in awarding lesser quantum of compensation to the claimants and the tribunal has failed to award a fair compensation and no compensation has been granted to the claimants for pain and sufferings, nutritious food and for the medical expenses and hence, the award of the tribunal has to be enhanced. On the other hand, the learned counsel for the respondents submitted that the award is reasonable, which does not warrant any interference of this court.

8.The dispute is in respect of quantum alone. It is seen from the records that the alleged accident took place on 02.10.1998 and the claimants herein were travelling as passengers in the Car TN-55-B-6162 at the time of accident. The tribunal, considering the nature of injuries sustained by the claimants, has awarded Rs.6,000/- towards compensation in respect of the claimants in MCOP Nos.298, 299, 301 and 302 of 1999 and Rs.48,140/- in respect of MCOP No.300 of 1999.

9.In this case, on perusal of the Accident Registers (Ex.P2 to P6), it is seen that the claimants have sustained only simple injuries. The tribunal has awarded Rs.6,000/- for the simple injuries sustained by the claimants in respect of MCOP Nos.298, 299, 301 and 302 of 1999. However, considering the facts and circumstances of the case, this court is of the considered view that it is just and reasonable to award Rs.20,000/- as lump sum compensation to the claimants in respect of MCOP Nos.298, 299, 301 and 302 of 1999.

10.In respect of the claim in MCOP No.300 of 1999, the claimant was examined as PW5. He deposed that in the alleged accident, he sustained injuries on the hip and right hand and for that, initially he was taking treatment in Balaji Hospital and thereafter, he was taking in another hospital for seven days and he spend spend



Rs.50000/- . The Doctor, who determined the disability for the claimant was examined as PW6. He deposed that after examining the injured, he issued the Disability Certificate (Ex.P10) stating that the injured has sustained 20% permanent disability. The tribunal awarded Rs.20,000/- for permanent disability.

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11.It is to be noted here that in this case, the Doctor has assessed the disability of the claimant as 20%. As per the judgment reported in **2013(2) TAN MAC 583 (National Insurance Company Limited Vs. G.Ramesh)**, for 1% of disability, the claimant is entitled to Rs.3,000/-. Hence, it is held that the claimant is entitled to Rs.60,000/- for 20% disability at the rate of 3,000/- for 1%. Insofar as the other heads, the award of the tribunal are reasonable and hence, they are confirmed. In total, the claimant in MCOP No.300 of 1999 is entitled to Rs.88,140/- together with interest at the rate of 7.5% p.a.

12.In the result, all the Civil Miscellaneous Appeals are **partly allowed**. In respect of MCOP Nos.298, 299, 301 and 302 of 1999, the award is enhanced to Rs.20,000/ from Rs.6,000/-. In respect of MCOP No.300 of 1999, the award is enhanced to Rs.88,140/- from Rs.48,140/-. The interest at the rate of 7.5% per annum awarded by the tribunal is maintained. The 1st respondent/the owner of the offending vehicle, is directed to deposit the modified award amount together with accrued interest and costs, less the amount already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such compliance, all the claimants are permitted to withdraw the modified amount, less the amount already withdrawn without filing any formal petition before the tribunal. The claimants shall pay the additional court fee for the enhanced amount. No costs.

Sd/-

Assistant Registrar (CSIII)

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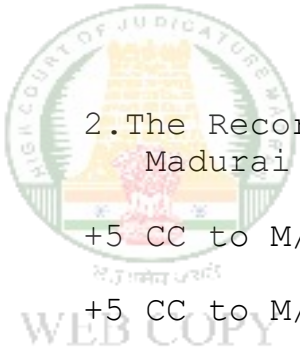
Sub Assistant Registrar(CS)

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To,

1.The Motor Accident Claims Tribunal/
Chief Judicial Magistrate, Pudukottal.



2.The Record Keeper,V.R Section
Madurai Bench of Madras High Court,

+5 CC to M/s.J.S.MURALI, Advocate (SR-18547[F] dated 13/05/2021)

+5 CC to M/s.D.SIVARAMAN, Advocate (SR-18522[F] dated 13/05/2021)

C.M.A(MD)Nos.777 to 781 of 2015
12.05.2021

KB(16.06.2021) 7P 14C