



C.M.A.No.1243 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2022

C O R A M

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

C.M.A.No.1243 of 2011

and

M.P.No.1 of 2011

National Insurance Co Ltd
Division Office 2
64 Lal Baug, Mission Road
Bangalore 560 027.

...

Appellant

Vs

1. Logendran

2. Sudarsana

...

Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the Decree and Judgment dated 8/12/2010 made in M.C.O.P.No.415 of 2006 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate), Namakkal.

For Appellant

...

Mrs.N.B.Surekha

For respondents

...

Mr.MA.P.Thangavel
for R.1.



C.M.A.No.1243 of 2011

J U D G M E N T

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The Insurance Company has preferred this Civil Miscellaneous Appeal, challenging the compensation awarded by the Motor Accidents Claims Tribunal (Chief Judicial Magistrate), Namakkal, in M.C.O.P.No.415 of 2006, under the head 'loss of future earning due to permanent disability' sustained by the claimant.

2. The case of the 1st respondent/claimant is that on 05.10.2005 at 10.30 p.m., while he was travelling as a pillion rider in a TVS victor motor cycle bearing registration No.TN-28-M-1836 at Iyyampalayam, near Thenpandian Mill on the Namakkal to Paramathi Main Road, the driver of a Qualis car bearing registration No.KA-05-MS-6666 came in a rash and negligent manner and dashed behind the vehicle of 1st respondent. Due to the said accident, the 1st respondent sustained multiple grievous injuries all over his body and hence, he claimed a compensation of Rs.4,00,000/-.

3. The Tribunal, after perusal of records and on examination of the witnesses, had awarded a compensation of Rs.4,49,201/- fixing the liability on the appellant/ Insurer and the 2nd respondent /owner of the vehicle, payable with



C.M.A.No.1243 of 2011

interest at the rate of 7.5%.

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4. Heard Mrs.N.B.Surekha, learned counsel for the appellant and Mr.MA.P.Thangavel, learned counsel appearing for the first respondent.

5. Today, when the matter is taken up for hearing, the learned counsel appearing for the appellant and the first respondent submitted that in a connected case in C.M.A.No.1223 of 2011 filed by the rider of two wheeler, who sustained injury in the same accident was settled through Lok Adalat.

6. Learned counsel appearing for the appellant submitted that at the time of admission, this Court was pleased to grant stay on 27.04.2011, to all further proceedings, on condition to deposit a sum of Rs.4,00,000/- of the award amount, together with proportionate interest and costs, less the amount already deposited to the credit of M.C.O.P.No.415 of 2006 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate), Namakkal, within a period of six weeks, from the date of receipt of the copy of the said order. This Court, further, permitted the claimant to withdraw a sum of Rs.2,50,000/- with proportionate interest.



7. Learned counsel appearing for the appellant and the learned counsel appearing for the first respondent have filed synopsis and calculation memo accepting for the following terms:

“Out of the balance deposit amount of Rs.1,50,000/- which is laying in the credit of MCOP No.415 of 2006, the 1st respondent/claimant may be permitted to withdraw a sum of Rs.1,00,000/- with accrued interest and proportionate cost and the appellant insurance company may be permitted to withdraw the balance sum of Rs.50,000/- along with accrued interest.”

The said calculation memo is recorded.

8. Considering the fact that connected case in C.M.A.No.1223 of 2011 was settled through Lok Adalat and that the learned counsel appearing for the appellant and the learned counsel appearing for the first respondent have jointly filed a calculation memo accepting the aforesaid terms, this Court passes the following order:-

(i) First respondent/claimant is permitted to withdraw a sum of Rs.1,00,000/- (Rupees One lakh only) with accrued interest and proportionate cost and

(ii) Insurance Company/appellant is permitted to withdraw a balance sum of



C.M.A.No.1243 of 2011

Rs.50,000/- (Rupees Fifty thousand only) along with accrued interest, after filing

necessary application.

9. With the above directions, this Civil Miscellaneous Appeal is allowed in part. No costs. Consequently, the connected Miscellaneous Petition No.1 of 2011 is closed.

16.03.2022

Index : Yes/No

Internet : Yes/No

mvs/vsi

To

1. The Motor Accidents Claims Tribunal
(Chief Judicial Magistrate), Namakkal.
2. The Section Officer,
VR Section
Madras High Court.

J.NISHA BANU, J



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C.M.A.No.1243 of 2011

mvs/vsi

C.M.A.No.1243 of 2011

16.03.2022