



C.M.A.Nos.2331 and 1585 of 2022

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 28.11.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.2331 of 2022

and

C.M.A.No.1585 of 2022

and

C.M.P.No.11743 of 2022

C.M.A.No.2331 of 2022:

D.Senthil

... Appellant/Petitioner

Vs.

1.D.Aruldoss

2.The United India Insurance Company Limited,
No.13-A, Nethaji Road,
Manjakuppam,
Cuddalore.

... Respondents/Respondents

C.M.A.No.1585 of 2022:

The United India Insurance Company Limited,
No.13-A, Nethaji Road,
Manjakuppam,
Cuddalore.

... Appellant/2nd Respondent



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Vs.

1.D.Senthil

... Respondent/Petitioner

2.D.Aruldoss

... Respondent/1st respondent

Prayer in C.M.A.No.2331 of 2022: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act against the Award and Decree dated 28.02.2022 in M.C.O.P.No.1513 of 2017 on the file of the learned I additional Subordinate Judge (FAC), Motor Accidents Claims Tribunal, Cuddalore.

Prayer in C.M.A.No.1585 of 2022: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act against the Award and Decree dated 28.02.2022 in M.C.O.P.No.1513 of 2017 on the file of the learned I additional Subordinate Judge (FAC), Motor Accidents Claims Tribunal, Cuddalore.

For Appellant : Ms.Ramya V. Rao
in C.M.A.No.2331 of 2022

Mr.D.Baskaran
in C.M.A.No.1585 of 2022

For Respondents : Mr.D.Baskaran for R2
in C.M.A.No.2331 of 2022



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Ms.Ramya V. Rao for R1
in C.M.A.No.1585 of 2022

Not ready in notice regarding R1
in C.M.A.No.2331 of 2022

Not ready in notice regarding R2
in C.M.A.No.2331 of 2022

COMMON JUDGMENT

In C.M.A.No.2331 of 2022, the claimant is before this Court seeking an enhancement of the Award passed in M.C.O.P.No.1513 of 2017 on the file of the learned I Additional Subordinate Judge (FAC), Motor Accidents Claims Tribunal, Cuddalore and the Insurance Company has challenged the same in C.M.A.No.1585 of 2022.

2.The above claim petition was filed by the petitioner/appellant in C.M.A.No.2331 of 2022 seeking compensation of a sum of Rs.25 lakhs for the injuries sustained by him in a road accident. It is his case that he is running a Sound service concern and earning a monthly income of Rs.1 lakh per month. He would submit that on 01.11.2016,



when he was riding his motor cycle bearing Registration No.PY 01BH 7449 on the Cuddalore to Puducherry Main road, the 1st respondent's Car, bearing Registration No.TN 46S 0654 coming in the opposite direction in a rash and negligent manner dashed against him, as a result of which, the petitioner sustained grievous injuries.

3.The 1st respondent/owner of the Car remained *ex parte* and the Insurance Company alone had contested the claim by denying the age, occupation and income of the appellant in C.M.A.No.2331 of 2022 and also denying the manner in which the accident had taken place and contending that the appellant herein had also contributed to the accident.

4.The Tribunal on considering the evidence on record fastened negligence on the driver of the 1st respondent's Car and awarded a compensation of a sum of Rs.14,59,355/-. The Tribunal had taken into account the fact that the petitioner had sustained a partial



permanent disability and fixed the disability at 50% as assessed by the Medical Board. The Tribunal had taken a notional income of Rs.9,000/- and taking into consideration the age of the petitioner had adopted a multiplier of 14, ultimately, a sum of Rs.9,45,000/- was awarded under the head of partial permanent disability. A sum of Rs.2,15,855/- was also awarded towards pain and sufferings and mental agony.

5.The claimant had been treated originally at Pondicherry Institute of Medical Sciences, Puducherry, from 02.11.2016 to 10.12.2016 for 39 days where the external fixation has been done on his right leg and thereafter, it was removed. On 23.11.2016, the internal fixation was done for a malunited fracture. He was once again admitted in the hospital from 14.02.2017 to 21.02.2017. Once again, he was admitted on 21.03.2017 and discharged on 24.03.2017 and finally on 02.12.2017 to 08.12.2017. The hospitalisation is evidenced by Ex.P.4, Ex.P.5, Ex.P.6 and Ex.P.7 respectively. The



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Medical Board had assessed the disability at 50%. The nature of injuries does not warrant assessing the disability at 50%. Therefore, the same is reduced to 20%. Consequently, the amount under the head of functional disability would be a sum of Rs.3,78,000/- (Rs.9,000 x 25% x 12 x 20% x 14). Considering the long hospitalisation, a further sum of Rs.5,000/- is granted under the head of attendant charges, i.e., a sum of Rs.25,000/-. In all other respects, the Award remains unaltered. Therefore, taking into consideration the above aspects, the modified amount is as follows:

Functional disability	-Rs.3,78,000/-
Transport expenses	-Rs. 74,500/-
Extra nourishment	-Rs. 30,000/-
Attendant charges	-Rs. 25,000/-
Pain and sufferings	-Rs. 80,000/-
Medical expenses	-Rs.2,15,855/-
Loss of amenities	-Rs. 40,000/-
Loss of income	-Rs. 54,000/-

Total	:Rs.8,97,355/-



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Therefore, a sum of Rs.14,59,355/- awarded by the Tribunal is reduced to a sum of Rs.8,97,355/- which is rounded off to a sum of Rs.9,00,000/-.

6. Accordingly, the appeal filed by the claimants in C.M.A.No.2331 of 2022 is dismissed and the appeal filed by the Insurance Company in C.M.A.No.1585 of 2022 is partly allowed. The Insurance Company is directed to deposit the entire compensation amount now determined by this Court with interest @ 7.5% per annum, less the amount already deposited, with proportionate accrued interest and costs, to the credit of M.C.O.P.No.1513 of 2017 on the file of the learned I additional Subordinate Judge (FAC), Motor Accidents Claims Tribunal, Cuddalore, within a period of four weeks from the date of receipt of a copy of this order, if not deposited earlier. On such deposit, the claimant is permitted to withdraw the entire award amount with proportionate accrued interest and costs, by making necessary applications.



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The claimant is directed to pay the Court fee for the compensation amount, if required. The Tribunal below shall not disburse the amount till such time as proof of payment of Court Fee has been produced by the claimant. No costs. Consequently, connected Miscellaneous Petition is closed.

28.11.2022

Index : Yes/No
Internet : Yes/No
Speaking order / Non speaking order
mps

To

The I additional Subordinate Judge (FAC),
Motor Accidents Claims Tribunal,
Cuddalore.



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P.T. ASHA, J,

mps

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