



C.M.A.No.3381 of 2008

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

C.M.A.No.3381 of 2008
and MP.No.1 of 2008

National Insurance Co. Ltd.,
165, Nethaji Road,
Manjakuppam, Cuddalore.

...Appellant

Vs.

1. Kannan Alias Kannaiyan
2. Annappan

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, as against the Judgment and decree dated 10.07.2006 made in M.A.C.T.O.P.No.1491 of 2004 on the file of the Motor Accident Claims Tribunal, Cuddalore (Additional Sub Judge).

For Appellant : Mr.S.Vadivel

For Respondents : Mrs.Ramya V Rao, for R1
Notice not ready, for R2



C.M.A.No.3381 of 2008

JUDGEMENT

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Challenging the judgment and decree dated 10.07.2006 made in M.A.C.T.O.P.No.1491 of 2004 on the file of the Motor Accident Claims Tribunal, Cuddalore (Additional Sub Judge), the insurer is before this Court.

2. The case of the appellant is that, the 1st respondent/claimant filed a claim petition claiming a compensation of Rs.5,00,000/- on the ground that, on 14.03.2004, at about 03.00 p.m., when the 1st respondent was riding a bicycle on the extreme left side of the Madampuliyur to Manalurpettai road, near Koovanoor cross road, a Moped bearing Regn.No.TN-32-B-7903, owned by the 1st respondent, insured with the 2nd respondent, driven by its driver in a rash and negligent manner, came in the same direction in a high speed and hit behind the said bicycle, as a result of which, the 1st respondent sustained multiple injuries all over his body and got admitted in the hospital. Thereby, the 1st respondent filed a claim petition seeking compensation for the injuries sustained by him at the time of accident. After contest, the tribunal, vide impugned judgment awarded a compensation of Rs.2,10,800/-. Aggrieved with the said order, the present appeal has been filed by the insurer of the offending



C.M.A.No.3381 of 2008

vehicle, questioning the liability of the insurer.

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3. Learned counsel appearing for the appellant submitted that, pursuant to the matter being referred to Lok Adalat, the matter got settled in between the parties after due deliberation and both the parties have agreed to settle the matter for Rs.1,60,000/-. However, as the 1st respondent/claimant failed to sign the Lok Adalat order dated 01.10.2019, the said order was subsequently set aside and matter got posted before this Court for disposal in accordance with law. However, the learned counsel for the appellant submitted that, this Court may pass appropriate orders as agreed into between the parties.

4. Though learned counsel appearing for the 1st respondent argued the matter for sometime on the question of disability, however when this Court pointed out that the Lok Adalat had passed an award, which could not be set aside except on the ground of perversity and illegality and no such plea has been taken, learned counsel submitted that this Court may pass award in terms with the award passed in the Lok Adalat by making the necessary computation.



C.M.A.No.3381 of 2008

5. Heard the learned counsel for the appellant and the learned counsel appearing for the 1st respondent and perused the materials available on record.

6. Though very many grounds have been raised by the learned counsel on either side, at the time of arguments, the learned counsel for the appellant submitted that the matter got referred to Lok Adalat and after mutual discussion, negotiation, mediation and conciliation between both parties, they arrived at a compromise to settle the matter for Rs.1,60,000/-, and considering the same, this Court may pass appropriate orders.

7. The accident is of the year 2004 and at the time of accident, the 1st respondent was aged about 55 years and was doing agriculture and it was claimed by the 1st respondent that he was earning a sum of Rs.7,500/-. Disability has been fixed at 35% permanent in nature, but considering the nature of injuries, this Court deems it just and proper to adopt percentage method and, accordingly, fixes a sum of Rs.2,000/- per percentage of disability. Therefore, the amount under the head of disability stands modified to a sum of Rs.70,000/- (35% x Rs.2,000/- = Rs.70,000/-).



C.M.A.No.3381 of 2008

WEB COPY

8. Insofar as loss of income is concerned, during the period when the claimant was not able to earn his livelihood on account of the injuries sustained, this Court feels that a sum of Rs.10,000/- for a period of three months would be just and reasonable and no compensation has been awarded under the head Attender charges and therefore a sum of Rs.10,000/- shall be awarded under the said head. Further, only a sum of Rs.15,000/- has been awarded under the head Pain and suffering, which is on the lower side and therefore, the same is enhanced to Rs.40,000/- The compensation awarded under the other heads by the Tribunal stands confirmed.

9. In view of the above, this Court is inclined to modify the compensation awarded by the Tribunal as under :-

Heads	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
Disability	1,84,800/-	70,000/-



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C.M.A.No.3381 of 2008

Heads	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
Pain and sufferings	15,000/-	40,000/-
Extra Nourishment	10,000/-	10,000/-
Transportation expenses	1,000/-	1,000/-
Loss of income	-	30,000/- (10,000/-*3)
Attender Charges	-	10,000/-
Total	2,10,800/-	1,61,000/-

10. Accordingly, the appeal stands partly allowed and the impugned Award of the Tribunal is modified by reducing the compensation amount from **Rs.2,10,800/-** to **Rs.1,61,000/-**. The appellant-Insurance company is directed to deposit the said amount to the credit of M.A.C.T.O.P.No.1491 of 2004 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the said amount directly to the bank account of the 1st respondent through RTGS within a period of two (2) weeks thereafter. There shall be no order as to costs in the present appeal. Consequently, the connected



C.M.A.No.3381 of 2008

Miscellaneous petition is closed.

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11.10.2023

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Index : Yes / No
Speaking Order : Yes / No
Neutral Citation Case : Yes / No

To

- 1.The MACT / Additional District Court, Namakkal.
- 2.The Section Officer, V.R. Section, High Court, Madras.

M.DHANDAPANI, J.

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C.M.A.No.3381 of 2008

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11.10.2023