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C.M.A.Nos.3119 & 3521 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.Nos.3119 & 3521 of 2010

and

M.P.Nos.1 of 2010

The New India Assurance Co. Ltd.,
Motor Third Party Cell, V Floor,
No.45, Moore Street,
Chennai 600 001.

...Appellant in C.M.A.No.3119 of 2010

M.Mahendra Singh

... Appellant in C.M.A.No.3521 of 2010

Vs.

1. M.Mahendra Singh
2. S.Pandurangan

... Respondents in C.M.A.No.3119 of 2010

1. S.Pandurangan
2. The New India Assurance Co. Ltd.,
No.45, Moore Street, V Floor,
Chennai 600 001.

... Respondents in C.M.A.No.3521 of 2010

Common Prayer: The Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 30.06.2010 made in M.A.C.T.O.P.No.1514 of 2007, on the file of the V Small Causes Court (Motor Accidents Claims Tribunal), Chennai.



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C.M.A.No.3119 of 2010

For Appellant : Mr.M.Krishnamoorthy
For R1 : Mr.M.Mahendran
for N.M.Muthurajan
For R2 : Ex-parte

C.M.A.No.3521 of 2010:

For Appellant : Mr.M.Mahendran
for N.M.Muthurajan
For R1 : Ex-parte
For R2 : Mr.M.Krishnamoorthy

COMMON JUDGEMENT

Since the issue involved in both the appeals are one and the same, with the consent of the learned counsel for the parties, both the appeals were heard together and disposed of by this common order.

2. Challenging the awards passed by the Motor Accidents Claims Tribunal, V Small Causes Court (Motor Accidents Claims Tribunal), Chennai, in M.A.C.T.O.P.No.1514 of 2007 dated 30.06.2010, the appellant/insurance company and claimants have preferred the above appeals.

3. The facts in brief are as follows :-



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On 10.11.2006 at about 16.50 hours, while the first respondent in

C.M.A.No.3119 of 2010 and appellant in C.M.A.No.3521 of 2010 was travelling as a passenger in Share Auto bearing Reg.No.TN 21 D 3215 along with other passengers from Mugappair to Kalpakkam, at that time, a TATA Sumo Car bearing Reg.No.TN 49 P 1113, driven by one R.H.Alexander, which came from the opposite direction in a rash and negligent manner and dashed the said auto rickshaw. Due to the impact of the said accident, the claimant sustained multiple injuries all over his body. Hence, the claimant made claim petition before the Tribunal claiming a sum of Rs.25,00,000/- as compensation.

4. On consideration of oral and documentary evidence, the Tribunal has awarded a sum of Rs.9,89,500/- towards compensation to the claimant. Being not satisfied and aggrieved by the said compensation amount awarded by the Tribunal, the appellant/Insurance Company and claimant have preferred these appeals.

5. The learned counsel for the insurance company submits that the claim of Rs.25,00,000/- is highly excessive and without any basis. He further submits that the claimant neither proved his occupation and income nor the loss



of employment. Hence the Tribunal has not justified in applying the multiplier method for arriving at the loss of earning. He further submits that the Tribunal without following the guidelines, has erred in awarding the compensation in medical expenses in the absence of any evidence.

6. Per contra the learned counsel for the claimant submits that the claimant was suffering from 75% permanent disability, hence lost his earning capacity totally. However, the Tribunal has arrived at the loss of earning at 75% only instead of 100%. Hence, the award of the Tribunal may be interfered with and may be enhanced.

7. Heard the learned counsel for the insurance company and the learned counsel for the claimant and perused the materials placed on record.

8. It is not in dispute that the injured claimant has suffered injuries in the accident which occurred on 10.11.2006. It is admitted case that on account of the negligent driving of the driver of the TATA Sumo Car, the accident had happened. With regard to the quantum of compensation arrived at, the Tribunal has taken the income of the claimant at Rs.4,500/- per month and arrived a sum



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of Rs.6,88,500/- as compensation under the head loss of earning which needs no interference. With regard to the attender charges, the Tribunal has awarded a sum of Rs.25,000/- which needs interference and the same is reduced at Rs.10,000/-. With regard to extra nourishment, the Tribunal has awarded a sum of Rs.10,000/- which is highly excessive and the same needs to be modified by this Court. Hence, this Court is inclined to modify the amount under the head extra nourishment at Rs.5,000/- which would be just and reasonable. With regard to damage to clothing, the Tribunal awarded a sum of Rs.1,000/- which is on the lower side and the same is enhanced to a sum of Rs.5,000/-.

9. Insofar as the compensation awarded under the heads agony, loss of amenities, disfigurement, loss of expectancy of life and loss of social status, no compensation can be awarded under such heads as those heads are not conventional heads, which does not attract any compensation. Therefore, the compensation awarded under the said heads are accordingly set aside. Insofar as the compensation awarded under the other heads, they are just and reasonable and the same does not require any interference.



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10. In the above circumstances, the compensation awarded by the Tribunal in M.C.O.P.No.1514 of 2007 is modified as under :-

<i>S.No.</i>	<i>Description</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
1	Loss of earning due to disability	6,88,500/-	6,88,500/-
2	Agony	50,000/-	-
3	Loss of amenities	50,000/-	-
4	Attendant charges	25,000/-	10,000/- (reduced)
5	Disfigurement	50,000/-	-
6	Loss of expectancy of life	25,000/-	-
7	Loss of social status	25,000/-	-
8	Transport charges	5,000/-	5,000/-
9	Extra nourishment	10,000/-	5,000/- (reduced)
10	Damages to clothing	1,000/-	5,000/- (enhanced)
11	Medical expenses	10,000/-	10,000/-
12	Pain and suffering	50,000/-	50,000/-
	Total	9,89,500	7,73,500/-

11. The appeal in C.M.A.No.3119 of 2010 filed by the insurance company is partly allowed and the impugned Award of the Tribunal in M.C.O.P.No. 1514 of 2007 is modified by reducing the compensation amount from **Rs.9,89,500/-** to **Rs.7,73,500/-**. However, the appeal in C.M.A.No.3521 of



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2010 filed by the claimant is dismissed. The Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.1514 of 2007 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 six (6) weeks from the date of receipt of a copy of this judgment.

12. On deposit being made in M.C.O.P.No.1514 of 2007, the Tribunal is directed to transfer the said amount through RTGS along with accrued interest to claimant within a period of two (2) weeks thereafter. There shall be no order as to costs in these appeals. Consequently, connected miscellaneous petition is closed.

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Speaking Order : Yes/No

Index : Yes/No

NCC : Yes/No



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- To
1. Small Causes Court (Motor Accidents Claims Tribunal), Chennai.
 3. The Section Officer, V.R. Section, High Court, Madras.



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M.DHANDAPANI, J.

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