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C.M.A.Nos.585 and 586 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.Nos.585 and 586 of 2013

A.Khader	... Appellant in C.M.A.585/2013
M.Ganibasha	... Appellant in C.M.A.586/2013

Vs.

1.R.Ravi

2.The New India Assurance Co. Ltd., No.46, Second Line Beach, Moore Street, Chennai – 600 001.	... Respondents in C.M.A.585/2013
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1.R.Ravi

2.The New India Assurance Co. Ltd., No.46, Second Line Beach, Regina Mansion, Moore Street, Chennai – 600 001.	... Respondents in C.M.A.586/2013
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Common Prayer:

Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 14.06.2004 in M.C.O.P.Nos.2213 and 2212 of 1999 respectively, on the file of Motor Accidents Claims Tribunal (V Judge, Court of Small Causes) at Chennai.



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For Appellants : Ms.Ramya V.Rao
For Respondents : Mrs.S.R.Sumathy for R2
R1 – NRN

COMMON JUDGMENT

These appeals have been filed by the appellants/ claimants seeking enhancement of the compensation awarded by the Motor Accidents Claims Tribunal (V Judge, Court of Small Causes) at Chennai, in the judgment dated 14.06.2004 made in M.C.O.P.Nos.2213 and 2212 of 1999 respectively.

2.The brief facts of the case is that on 08.11.1998 at about 22 hours, the appellants were travelling as passengers in an Auto bearing Registration No.TN-09 F-7157 proceeding from North to South direction in New Mahabalipuram Road. At that time a car bearing Registration No.TN-07 A-3769 driven by its driver in a rash and negligent manner came from opposite direction and dashed against the Auto, due to which, the appellants sustained grievous injuries.

3.Thereafter, the injured appellants filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.5 Lakhs and Rs.2 Lakhs respectively. After adjudication, the Tribunal, awarded



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a sum of Rs.2,73,500/- and Rs.87,000/- respectively, with interest at the rate of 9% from the date of petition till the date of payment and cost and directed the second respondent Insurance Company to pay the compensation. Aggrieved by the same, the injured claimants have filed these appeals seeking enhancement of compensation.

4.The learned counsel appearing for the appellants claimants submitted that the Tribunal did not adjudicate the issue properly and awarded only a meagre sum of compensation. This Court may enhance the amount awarded as compensation.

5.The learned counsel appearing for the second respondent Insurance Company submitted that the Tribunal has not adjudicated the issue properly and has awarded excess compensation and hence, the impugned judgment and decree warrants interference.

6.Heard the arguments advanced by the learned counsel appearing for the appellants claimants as well as the learned counsel appearing for the second respondent Insurance Company and perused the materials available on record.



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7. Admittedly, on 08.11.1998 at about 22 hours, the appellants were travelling as passengers in an Auto proceeding from North to South direction in New Mahabalipuram Road. At that time a car came from opposite direction in a rash and negligent manner and dashed against the Auto, due to which, the appellants sustained grievous injuries.

8. Perusal of the impugned judgment reveals that the Tribunal without any calculation, mechanically has awarded compensation in whims and fancy. Hence, this Court is inclined to modify the compensation awarded by the Tribunal.

9. In C.M.A.585 of 2013 (M.C.O.P.No.2213 of 1999):

(i) The Doctor has assessed the disability of the injured claimant as 50%. Since the assessment of disability varies from Doctor to Doctor, this Court fix the disability of the claimant as 45% and award a sum of Rs.1,000/- per percent of disability. Hence, the loss of income works out to Rs.45,000/- [45% X Rs.1,000/- = Rs.45,000/-]. This Court awards a sum of Rs.15,000/- for pain and sufferings, a sum of Rs.6,000/- for loss of earning power, a sum of Rs.2,000/- for



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transportation charges, a sum of Rs.2,000/- for extra nourishment.

The interest awarded by the Tribunal in the opinion of this Court is high and hence, the interest is reduced to 7.5% from 9%.

(ii).Accordingly, the appellant/ claimant is entitled to a total compensation of Rs.70,000/- with interest at the rate of 7.5% from the date of petition till the date of payment. The second respondent Insurance Company shall deposit the modified award amount with interest at the rate of 7.5% p.a. from the date of petition till realization.

10.In C.M.A.586 of 2013 (M.C.O.P.No.2212 of 1999):

(i)The Doctor has assessed the disability of the injured claimant as 45%. Since the assessment of disability varies from Doctor to Doctor and since the Doctor in his deposition has deposed that there is a fracture in his right femur, this Court fix the disability of the claimant as 20% and award a sum of Rs.1,000/- per percent of disability. Hence, the loss of income works out to Rs.20,000/- [20% X Rs.1,000/- = Rs.20,000/-]. This Court awards a sum of Rs.15,000/- for pain and sufferings, a sum of Rs.12,000/- for loss of earning power, a sum of Rs.2,000/- for transportation charges, a sum of Rs.2,000/- for extra



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nourishment. The interest awarded by the Tribunal in the opinion of this Court is high and hence, the interest is reduced to 7.5% from 9%.

(ii).Accordingly, the appellant/ claimant is entitled to a total compensation of Rs.51,000/- with interest at the rate of 7.5% from the date of petition till the date of payment. The second respondent Insurance Company shall deposit the modified award amount with interest at the rate of 7.5% p.a. from the date of petition till realization.

11.The civil miscellaneous appeals are disposed of on the above terms. The judgment and decree dated 14.06.2004 made in M.C.O.P.Nos.2213 and 2212 of 1999 respectively, by the Motor Accidents Claims Tribunal (V Judge, Court of Small Causes) at Chennai, is modified to the above extent.

12.The second respondent Insurance Company is directed to deposit the modified award amount before the Tribunal within a period of four weeks from the date of receipt of a copy of this judgment, if not already deposited. On such deposit, the appellants/ claimants are permitted to withdraw the modified award amount with accrued



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interest and costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The appellants/ claimants shall not be entitled to any interest for the period of delay, if any, in filing the appeals. The second respondent Insurance Company is permitted to withdraw the excess amount, if any, already deposited by them.

13.The civil miscellaneous appeals are disposed of on the above terms. No costs.

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

1.The Motor Accidents Claims Tribunal
(V Judge, Court of Small Causes) at Chennai.



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M.DHANDAPANI,J.
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