



WEB COPY



C.M.A.No.1796 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2023

CORAM

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.1796 of 2018
and C.M.P.No.13822 of 2018

Magma HDI General Insurance Company Ltd
2nd Floor, 4/454, Ram Complex
Near New Bus Stand, ARRS Multiplex Salai
Salem – 636 009

.. Appellant

Versus

1.Subramani
2.K.R.Raju

.. Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree of the Motor Accidents Claims Tribunal (Subordinate Court) at Sankari made in M.C.O.P.No.284 of 2014 dated 15.03.2018.

For Appellant	: Mr.S.Arunkumar
For Respondents	: Mr.C.Kulanthaivel for R1

JUDGMENT

The Civil Miscellaneous Appeal has been filed against the Judgment and Decree of the Motor Accidents Claims Tribunal (Subordinate Court) at Sankari made in M.C.O.P.No.284 of 2014 dated 15.03.2018.



C.M.A.No.1796 of 2018

WEB COPY

2. The manner of the accident, factum of the accident, rash and negligence on the part of the driver of the offending vehicle are not in dispute

3. On 18.11.2014, the claimant was driving his motor cycle on left side at Vaikuntam-Kongunapuram Road, the second respondent lorry dashed the motor cycle and the claimant sustained injury. Hence, the claim petition.

4. The appellant is the Insurance Company seeking to challenge the award passed by the Tribunal on the ground of quantum. The second respondent is the owner of the offending vehicle and the first respondent is the claimant. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

5. During the trial before the Tribunal, the claimant examined himself as PW1. Ex.P1 to P12 were marked. Ex.P1 is the FIR Copy, Ex.P3 is the Discharge Summary, Ex.P4 is the medical bills and Ex.P11 is the disability certificate. The Tribunal on consideration of both oral and documentary evidences came to conclusion that the accident has taken place due to the rash and negligent driving of the driver of the offending vehicle, accordingly, fixed



C.M.A.No.1796 of 2018

the liability to Insurance Company and granted the compensation as tabulated below:

<i>Calculation</i>	<i>Rs.</i>
Loss of Earning Capacity	Rs.3,00,000/-
Medical expenses	Rs.50,000/-
Pain and sufferings	Rs.50,000/-
Transportation Expenses	Rs.10,000/-
Nutrition food	Rs.25,000/-
Cost of Attender Charges	Rs.10,000/-
Future medical expenses	Rs.25,000/-
Loss of property	Rs.5000/-
Total compensation is hereby fixed at	Rs.4,75,000/-

6.Heard Mr.S.Arunkumar, learned counsel for the appellant and Mr.C.Kulanthaivel, learned counsel for the first respondent and perused the materials placed on record.

7. Considering the facts and also taking note of the plea raised by the learned counsel for the appellant, this Court is of the considered view that the monthly income of the claimant should be fixed at Rs.1,00,000/- reducing from Rs.1,50,000/-. Accordingly, the monthly income would come at Rs.1,00,000 x 9 (multiplier) = 9,00,000/-, which is multiplied by 22% (disability) which would be calculated at (Rs. 9,00,000x22/100=Rs.1,98,000/-), hence the loss of earning



C.M.A.No.1796 of 2018

capacity of the claimant is assessed at Rs.1,98,000/-; further, the pain and sufferings which was fixed as Rs.50,000/- by the Tribunal is hereby reduced to Rs.30,000/-. Accordingly, the award amount is modified as below:

Calculation	Rs.
Loss of Earning Capacity	Rs.1,98,000/-
Medical expenses	Rs.50,000/-
Pain and sufferings	Rs.30,000/-
Transportation Expenses	Rs.10,000/-
Nutrition food	Rs.25,000/-
Cost of Attender Charges	Rs.10,000/-
Future medical expenses	Rs.25,000/-
Loss of property	Rs.5000/-
Total compensation is hereby fixed at	Rs.3,53,000/-

8. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed to the extent indicated above. Accordingly, the compensation awarded is reduced from Rs.4,75,000/- to Rs.3,53,000/-. The rate of interest awarded by the Tribunal remains in tact. Consequently, connected miscellaneous petition is closed. No Costs.

(ii) the appellant/Insurance Company is directed to deposit the reduced award amount before the Tribunal, within a period of six weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.



C.M.A.No.1796 of 2018

WEB COPY

(iii) On such deposit being made, the claimant is permitted to withdraw his share in the award amount with proportionate accrued interest and costs, as per the ratio of apportionment made by the Tribunal, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) If at all the Appellant Insurance Company had already deposited the awarded compensation amount, after satisfaction of the award, the Tribunal is directed to refund the surplus deposited money taking note of the reduced compensation amount herein, to the Appellant Insurance Company.

22.06.2023

Internet : Yes/No
Speaking Order/Non-Speaking Order
dhk

To
The Presiding Officer,
Motor Accidents Claims Tribunal
(Subordinate Judge Court)
Sankari

A.A.NAKKIRAN, J.



WEB COPY



C.M.A.No.1796 of 2018

dhk

C.M.A.No.1796 of 2018

22.06.2023