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C.M.A.No.3290 of 2014 And
Cross Objection No.17 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3290 of 2014

And

M.P.No.1 of 2014 and

C.M.P.Nos.3556 of 2021 and 27053 of 2023

And

Cross Objection No.17 of 2021

C.M.A.No.3290 of 2014:

National Insurance Co. Ltd.,
Policy Issuing Branch Office,
Green Field, Ooty – 643 001.
Local Service Branch Office,
930, Sathyamangalam Road,
Gandhipuram, Coimbatore.

... Appellant

Vs.

1.Balakrishnan
2.Samsukumar
3.Prakshkumar

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 21.04.2014 made in M.C.O.P.No.2586 of 2012 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Judge, Coimbatore.



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For Appellant : Mr.S.Arun Kumar
For Respondents : Mr.Ma.P.Thangavel for R1
R2 – No appearance
R3 – NRN

Cross Objection No.17 of 2021:

Balakrishnan

... Cross Objector

Vs.

1.The National Insurance Company Ltd.,
Policy Issuing Branch Office,
Green Field, Ooty – 643 001.
Local Service Branch Office,
930, Sathyamangalam Road,
Gandhipuram, Coimbatore.

2.Samsukumar
3.Prakash Kumar

(The respondents 2 and 3 are remains
Ex-Parte before the Tribunal, hence,
notice may be dispensed with for the
respondents 2 and 3 in the cross appeal)

... Respondents

Prayer:

Cross Objection filed under Order 41 Rule 22 of Civil Procedure Code, against decree and judgment in M.C.O.P.No.2586 of 2012 dated 21.04.2014 on the file of the Motor Accidents Claims Tribunal / Special Sub Court at Coimbatore.

For Cross Objector : Mr.Ma.P.Thangavel
For Respondents : Mr.S.Arun Kumar for R1



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COMMON JUDGMENT

The civil miscellaneous appeal as well as the cross objection have been filed against the judgment and decree dated 21.04.2014 in M.C.O.P.No.2586 of 2012 on the file of the Motor Accident Claims Tribunal/ Special Subordinate Judge, Coimbatore.

2.The third respondent before the Motor Accident Claims Tribunal is the appellant (hereinafter referred to as 'Insurance Company') in the civil miscellaneous appeal and the petitioner before the Motor Accident Claims Tribunal is the cross objector (hereinafter referred to as 'claimant') in the cross objection.

3.The brief facts of the case is that on 10.09.2012 at about 8.00p.m., when the claimant was travelling in his two wheeler bearing Registration No.TN 43-B-3549 near Mori having water tank in the kunda to Manjur Road, a car bearing Registration No.TN 37-C-7349 came in a rash and negligent manner from the opposite direction and dashed against the two wheeler, due to which, the claimant sustained injuries.



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4. Thereafter, the injured claimant/ first respondent in the civil miscellaneous appeal/ cross objector in cross objection filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.5 Lakhs. After adjudication, the Motor Accidents Claims Tribunal, awarded a sum of Rs.7,32,000/- as compensation to the claimant and directed the Insurance Company to pay the compensation amount with interest at the rate of 7.5% p.a. from the date of petition till the date of realization and proportionate costs.

5. The learned counsel appearing for the Insurance Company submitted that the Insurance Company has filed the appeal questioning the quantum of compensation awarded by the Tribunal. The learned counsel further submitted that the Tribunal based on exaggerated income tax returns, awarded a sum of Rs.72,000/- for loss of income and further submitted that the amount awarded for attendant charges is also highly excessive. The learned counsel further submitted that during the pendency of the appeal, the claimant produced some more bills worth Rs.14 Lakhs and all those bills are concocted one. Hence, this Court may set aside the award and remand the matter back to the Tribunal and grant liberty to the Insurance Company as well as the claimant to adduce fresh evidence.



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6.The learned counsel appearing for the Cross Objector submitted that during the pendency of the appeal, the claimant's right leg was amputated and fresh medical bills are available. Hence, this Court may set aside the award and remand the matter back to the Tribunal for fresh assessment based on the evidence produced by the claimant as well as the Insurance Company.

7.In view of the consent view expressed by the learned counsel appearing on either side, the award and decree dated 21.04.2014 passed in M.C.O.P.No.2586 of 2012 by the Motor Accidents Claims Tribunal/ Special Subordinate Judge, Coimbatore, is set aside and the matter is remanded back to the Motor Accidents Claims Tribunal/ Special Subordinate Judge, Coimbatore, for fresh consideration. The Insurance Company as well as the claimant are directed to produce, all the documents filed before this Court in C.M.P.Nos.3556 of 2021 and 27053 of 2023 in C.M.A.No.3290 of 2014, before the Motor Accidents Claims Tribunal/ Special Subordinate Judge, Coimbatore. Upon receipt of the same, the Motor Accidents Claims Tribunal/ Special Subordinate Judge, Coimbatore, shall consider the same and decide the issue afresh and dispose of the claim petition, within a period of three months from the date of receipt of a copy of this judgment.



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8.Since this Court remand the matter back to the Motor Accidents Claims Tribunal/ Special Subordinate Judge, Coimbatore, this Court is not inclined to consider the relief sought for in C.M.P.Nos.3556 of 2021 and 27053 of 2023. Registry is directed to return all the documents filed in C.M.P.Nos.3556 of 2021 and 27053 of 2023 in C.M.A.No.3290 of 2014 to the learned counsel appearing for the respective parties so as to enable them to produce the same before the Tribunal.

9.The civil miscellaneous appeal as well as the cross objection are disposed of on the above terms. No costs. Consequently, the connected miscellaneous petitions are closed.

28.11.2023

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Note: Registry is directed to return all the documents filed in C.M.P.Nos.3556 of 2021 and 27053 of 2023 in C.M.A.No.3290 of 2014 to the learned counsel appearing for the respective parties.

Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The Motor Accident Claims Tribunal/
Special Subordinate Judge, Coimbatore.

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M.DHANDAPANI,J.
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