



C.M.A. No.3498 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.06.2023

CORAM

**THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN**

C.M.A. No.3498 of 2014

Thirumeni Selvam

...Appellant

*Versus*

1. M.A.Hajee Sayad Mohamed  
2. The Divisional Officer,  
The Oriental Insurance Co. Ltd.,  
Pondicherry.

...Respondents

**PRAYER:** Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 01.12.2003 in MCOP.No.1243/2002 on the file of the Motor Accidents Claims Tribunal, Fast Track Court-II, Tindivanam.

For appellant : Mr.S.Venkatesan  
for Mr.R.Thamarai Selvan

For respondents  
for R1 : No Appearance  
for R2 : No Appearance



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## **JUDGMENT**

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Challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal, Fast Track Court-II, Tindivanam in MCOP.No.1243/2002 dated 01.12.2003, the present appeal has been filed by the claimant.

2. It is the case of the claimant that on 28.05.2001 at 7.15 a.m. he was standing on the Tindivanam G.S.T. Main Road waiting for bus. At that time a Tata Sumo Car bearing Registration No.TN-72-F-2012 came in a rash and negligent manner and dashed against him. Due the impact, the claimant sustained multiple injuries with fracture. Immediately, he was admitted in a Government Hospital and then he was referred to other Medical institution for treatment.

3. It is the further case of the claimant that he was working as a Salesman and earning Rs.3,000/- per month. After the accident, he was not able to continue his work and hence, he made a claim of Rs.5,00,000/- as compensation.

4. The said claim was resisted by the Insurance Company by filing a detailed counter affidavit denying the manner of accident as projected by the



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claimant. They also denied their age occupation and income of the claimant.

Thus, they sought for dismissal of the claim petition.

5. Before the Tribunal, the claimant examined himself as PW1 and he also examined one Dr. Sekar as PW2 and marked Exs.A1 to A11. On the side of the respondents, no witness was examined and no documents were marked.

6. The Tribunal after analysing the entire evidence came to the conclusion that the accident had occurred due to the rash and negligent driving of the driver of the first respondent and awarded a compensation of Rs.70,000/- along with interest at the rate of 9% per annum. The amounts awarded by the Tribunal under various heads are as follows:

| <i>S.No.</i> | <i>Heads under which amounts are awarded by the Tribunal</i> | <i>Amount in Rs.</i> |
|--------------|--------------------------------------------------------------|----------------------|
| 1.           | For Injuries                                                 | 40,000               |
| 2.           | For Treatment                                                | 5,000                |
| 3.           | For Pain and Sufferings                                      | 25,000               |
|              | <b>Total</b>                                                 | <b>70,000</b>        |

7. Heard the learned counsel for the appellant and perused the materials available on record. There is no representation for the respondents.

8. Though very many contentions have been raised in the appeal, the learned counsel for the appellant now submitted that the claimant was in hospital for more than 108 days and took treatment as in-patient. Hence, he



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requested to award amounts under the heads Attender charges and Transportation charges.

9. Considering the fact that the claimant was in hospital for more than 108 days, this Court is inclined to award a sum of Rs.20,000/- towards Attender charges and Rs.7,000/- towards Transportation Charges. The amounts awarded under other heads are fair and reasonable and hence, they are confirmed.

10. In total, the appellant is entitled to **Rs.97,000/-** along with interest at the rate of 9% per annum from the date of claim petition till the date of realization. Thus, the total compensation payable to the appellant is re-calculated and tabulated below:

| <i>S.No</i> | <i>Heads under which amount is awarded by the Tribunal</i> | <i>Amount awarded by the Tribunal in Rs.</i> | <i>Amount awarded by this Court in Rs.</i> |
|-------------|------------------------------------------------------------|----------------------------------------------|--------------------------------------------|
| 1.          | For Injuries                                               | 40,000                                       | 40,000                                     |
| 2.          | For Treatment                                              | 5,000                                        | 5,000                                      |
| 3.          | For Pain and Sufferings                                    | 25,000                                       | 25,000                                     |
| 4.          | For Attender Charges                                       | -                                            | 20,000                                     |
| 5.          | For Transportation Charges                                 | -                                            | 7,000                                      |
|             | <b>Total</b>                                               | <b>70,000</b>                                | <b>97,000</b>                              |

<https://www.nhrc.to.gov.in/judis> 13. In view of the above modifications, the Civil Miscellaneous Appeal



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is partly allowed. The respondents 1 and 2 are directed to deposit the modified award amount of Rs.97,000/- with accrued interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the appellant/claimant is permitted to withdraw the modified award amount, less the amount already withdrawn, if any, together with proportionate interest and costs. The appellant shall pay necessary Court fee, if any on the enhanced compensation. No costs.

28.06.2023

Speaking Order : Yes / No  
Index : Yes / No  
pvs

To

1. The Fast Track Court-II,  
Motor Accidents Claims Tribunal, Tindivanam
2. The Section Officer,  
V.R.Section, High Court, Madras.



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**A.A.NAKKIRAN, J.**

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