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C.M.A.No.3522 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2023

CORAM

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.3522 of 2014
and M.P.No. 1 of 2014

The Manager,
M/s.National Insurance Company Ltd.,
No.25, Old No.13, Mamtha Complex,
Whites Road, Chennai – 600 006.

...Appellant

VS

1. Allabaksh
2. Mr.J.Akbar Ali

...Respondents

Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act against the decree and judgment dated 28.09.2012 made in M.C.O.P.No.110 of 2010 on the file of Motor Accident Claims Tribunal, Chief Judicial Magistrate, Tiruvallur.

For Appellant : Mr.G.Udaya Sankar

For Respondents : R1 – Dismissed [vide order dated
13.02.2023]

R2- *Ex-parte*



C.M.A.No.3522 of 2014

JUDGMENT

This Civil Miscellaneous Appeal arises against the award passed by the learned Chief Judicial Magistrate, Motor Accident Claims Tribunal, Tiruvallur, in M.C.O.P.No.110 of 2010 on 28.09.2012.

2. The appellant is the insurance company. On 26.07.2007 at about 6.00 hrs, while the claimant/first respondent was travelling in a chicken van bearing registration No.TN-21-R-6914 as a cleaner near Parivakkam road junction on Poonamallee bypass road, the second respondent's Eicher Van bearing registration No.TN-21-R-6914, in which the first respondent/claimant was travelled as cleaner was driven by its driver in a rash and negligent manner and dashed against the tanker lorry bearing registration No.TN-01-F-8383 and due to the impact of the accident, the claimant/first respondent sustained grievous fracture injury on his leg. In spite of the medical treatment, he had become 50% permanent disabled. Hence the claimant/first respondent claimed compensation for a sum of Rs.4,00,000/-.



C.M.A.No.3522 of 2014

3. Before the Tribunal, on behalf of the claimant, the claimant and a doctor were examined and 6 exhibits were marked. None were examined on the side of appellant insurance company nor were any exhibits marked.

4. On appreciation of the materials before it, the Tribunal awarded compensation as follows:

(a)Permanent Disability	:	Rs. 3,06,000/-
[3000*12*17*50%]		
(b)Transport Expenses	:	Rs. 5,000/-
(c)Extra Nourishment	:	Rs. 10,000/-
(d)Damage to Clothing	:	Rs. 1,000/-
(e)Medical Expenses	:	Rs. 6,000/-
(f)Pain and Suffering	:	Rs. 50,000/-

		Rs. 3,78,000/-

The said sum was directed to be paid along with interest at 9% per annum from the date of petition till the date of deposit of the award amount.

5. Learned counsel for the appellant insurance company submits that the Tribunal erred in granting sums of Rs.50,000/- towards pain and suffering and Rs.10,000/- towards extra nourishment and that the same are exorbitant.



C.M.A.No.3522 of 2014

6. Considering the nature of injuries sustained by the claimant/first respondent and he suffered 50% disability, this Court is not inclined to reduce the award amount awarded by the Tribunal.

7. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Connected miscellaneous petition is closed. The appellant/Insurance company is directed to deposit the award amount of Rs.3,78,000/- together with interest at 7.5% per annum from the date of petition till the date of deposit as compensation.

8. On such deposit made by the appellant/Insurance Company, the first respondent/claimant is at liberty to withdraw the sum on due application.

31.03.2023

Index:yes/no
Internet:yes/no
mp



C.M.A.No.3522 of 2014

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The Motor Accident Claims Tribunal,
Chief Judicial Magistrate,
Tiruvallur.



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C.M.A.No.3522 of 2014

A.A.NAKKIRAN, J.

mp

C.M.A.No.3522 of 2014

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