



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.Nos.1285 to 1287 of 2017

Branch Manager,
New India Assurance Company Ltd.,
Tambaram Branch,
No.4, Muthulinga Reddy Street,
Wet Tambaram, Chennai-2.

.. Appellants in all the appeals

Vs.

1. Ramesh Mirtha
2. Varadharajan
3. Kaliyaperumal

....1st respondent in CMA.Nos.1285 to 1287 of 2017

2. Gnanaprakasam

....2nd respondent in CMA.Nos.1285 to 1287 of 2017

Common prayer: Civil Miscellaneous Appeals filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment, dated 26.02.2013 in MCOP. Nos.124, 126 and 128 of 2013 on the file of the Motor Accident Claims Tribunal, Sub Judge, Ariyalur.

For Appellant : Mr.M.Krishnamoorthy for all the cases

For Respondents : Mr.S.Kaithamalai Kumaran R1
in CMA.No.1285 of 2017

R1 – No appearance in CMA.No.1286 of 2017



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R1 – NRN in CMA. No.1287 of 2017

R2 – ex-parte in all the cases

COMMON JUDGMENT

The appeal has been filed by the appellant/insurance company seeking quantum of compensation in the Judgment and decree, dated 26.02.2013 in MCOP. Nos.124, 126 and 128 of 2013 on the file of the Motor Accident Claims Tribunal, Sub Judge, Ariyalur.

2. It is the case of the claimants that on 11.04.2010, at about 9.30 pm. The respectclaimants, who are the first respondent, in all the appeals, were travelling in a van bearing Reg. No.TN 22 BZ 4869 from Chennai to Kumbakonam Main Road, near Meensurutti Market bridge, at the time, a lorry driven by its driver, which was insured with the appellant, had colluded with the van, due to which, the claimants along with other persons sustained injuries and admitted in the hospital. Thereafter, the claimants filed separate claim petition before the Tribunal claiming compensation.

3. Before the Tribunal, the claimants have examined 16 witnesses and marked 40 documents, On the side of the insurance company, there is no



witness examined and no documents were marked. After adjudication, the Tribunal has awarded huge compensation to the claimants without any basis.

4. For questioning the quantum of compensation, the appellants-insurance company has filed these appeals before this Court.

5. The learned counsel appearing for the appellant/insurance company contended that the Tribunal, without any basis, awarded huge compensation in favour of the claimants. Therefore, this court may interfere with the same and award compensation as per the guidelines issued by the Hon'ble Supreme court and prayed for allowing these appeals.

6. Per contra, the learned counsel appearing for the claimant in CMA.No.1285 of 2017 contended that due to rash and negligent driving of the driver of the lorry, the accident had happened. The Tribunal has rightly passed the award, which cannot be interfered with. Hence, he prayed for dismissing the appeals.

7. Heard the learned counsel for the appellants as well as the first



respondent in CMA.No.1285 of 2017 and also perused the materials available on record. There is no representation for the other respondents.

8. The facts of the case are not in dispute. The appellant is the insurance company and the first respondent is the claimants in all the cases. The case of the appellant is that on 11.04.2010 at about 9.30 p.m. The claimants and some others were travelling in a van, driven by its driver, from Chennai to Kumbakonam in a rash and negligent manner and dashed against the lorry which was came in a opposite direction. Due to the accident, the claimants were sustained injuries. It is the main grievance of the appellant that the Tribunal has awarded huge sum in favour of the claimants without any basis.

9. On perusal of the award passed in MCOP.no.124 of 2010, it is seen that the Tribunal erred in awarding excessive sum of Rs.10,00,000/- for the fracture of hip bone and head injury, which is erroneous. The doctor has assessed the disability at 60% as partial permanent disability and the accident had happened in the year 2010. Therefore, the Tribunal has fixed a sum of Rs.2000/- per percentage, which is very low and the same has to be increased at Rs.3000/- per percentage. Further, a sum of Rs.1,00,000/- each towards



denial medical expenses and eye treatment awarded by the Tribunal to the claimant, which are not entitled to. Further, the claimant is not entitled for future medical expenses.

In view of the above, this Court modifies the following order in respect of CMA.No.1285 of 2017:

Heads	Amount awarded by the Tribunal (Rs.)	Modified Award Amount (Rs.)
For partial permanent disability	1,20,000/- (60%x2000)	1,80,000/- (60% x 3000)
Dental treatment	1,00,000	
Eye treatment	1,00,000	
Medical expenses	3,41,000	3,41,000
Bone treatment	9,000	9,000
Transportation	20,000	20,000
Medicine expenses	1,00,000	
Medical treatment	50,000	50,000
Extra nourishment	30,000	30,000
Pain and sufferings	30,000	30,000
Future medicine exp.	1,00,000	50,000
Total	10,00,000	7,10,000



10. On perusal of the award passed in MCOP.no.126 of 2010, the doctor has assessed the disability at 20% as partial permanent disability and the accident had happened in the year 2010. Therefore, the Tribunal has fixed a sum of Rs.2000/- per percentage, which is very low and the same has to be increased at Rs.3000/- per percentage. Further, a sum of Rs.50,000/- and Rs.60,000/- towards medical expenses for private hospital and tablet charges awarded by the Tribunal to the claimant, which are not entitled to and the same has to be rejected. Further, the claimant is not entitled for future medical expenses.

In view of the above, this Court modifies the following order in respect of CMA.No.1286 of 2017:

Heads	Amount awarded by the Tribunal (Rs.)	Modified Award Amount (Rs.)
For partial permanent disability	48,000	72,000
Medical exp. In private hospital	50,000	
Tablet expenses	60,000	
Extra nourishment	30,000	30,000
transportation	10,000	10,000
Pain and sufferings	30,000	30,000



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Heads	Amount awarded by the Tribunal (Rs.)	Modified Award Amount (Rs.)
Future medical exp.	62,000	
Total	2,50,000	1,42,000

11. On perusal of the award passed in MCOP.no.126 of 2010, it is seen that the Tribunal erred in awarding excessive sum of Rs.3,46,000/- for the fracture of tibia in the right leg by awarding excessive compensation, which is erroneous. The doctor has assessed the disability at 26% as partial permanent disability and the accident had happened in the year 2010. Therefore, the Tribunal has fixed a sum of Rs.2000/- per percentage, which is very low and the same has to be increased at Rs.3000/- per percentage. Further, a sum of Rs.1,50,000/- and Rs.40,000/- towards medical expenses for private hospital and tablet charges awarded by the Tribunal to the claimant, which are not entitled to and the same has to be rejected. Further, the claimant is not entitled for future medical expenses.

In view of the above, this Court modifies the following order in respect of CMA.No.1287 of 2017:



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Heads	Amount awarded by the Tribunal (Rs.)	Modified Award Amount (Rs.)
For partial permanent disability	52,000	78,000
Medical exp. In private hospital	1,50,000	
Tablet expenses	40,000	
Extra nourishment	20,000	20,000
transportation	20,000	20,000
Pain and sufferings	30,000	30,000
Future medical exp.	34,000	
Total	3,46,000	1,48,000

12. In view of the above discussion and observation, the appeals are allowed and the awards passed by the Tribunal are modified and this court passes the following orders:

*(i) in respect of CMA.No. 1285 of 2017 is concerned, the appellant is directed to deposit a sum of **Rs.7,10,000/-** (Rupees Seven lakhs and ten thousand only) with interest at 7.5% per annum within a period of four weeks from the date of receipt of a copy of this judgment;*

*(ii) in respect of CMA.No. 1286 of 2017 is concerned, the appellant is directed to deposit a sum of **Rs.1,42,000/-** (Rupees One thousand and forty two thousand only) with interest at 7.5% per annum within a period*



of four weeks from the date of receipt of a copy of this judgment;

*(i) in respect of CMA.No. 1287 of 2017 is concerned, the appellant is directed to deposit a sum of **Rs.1,48,000/-** (Rupees one lakh forty eight thousand only) with interest at 7.5% per annum within a period of four weeks from the date of receipt of a copy of this judgment; and*

(iv) On such deposit being made, the claimants are permitted to withdraw the amount, along with interest and costs, less the amount if any already withdrawn.

13. In the result, all the Civil Miscellaneous Appeals are allowed. No costs.

13.10.2023

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Index : Yes

Speaking Order : Yes

To

The the Motor Accident Claims Tribunal, Sub Judge, Ariyalur.



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M.DHANDAPANI,J.

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