



WEB COPY



C.M.A.No.884 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2023

CORAM

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.884 of 2017
and C.M.P.No.4348 of 2017

United India Insurance Co.Ltd.,
K.P.S., Motors Buildings,
No.36, Katpadi Road,
Gandhi Nagar, Vellore – 6.

...Appellant

Versus

1.Thanigaivel
2. D.Haridoss
(R2 set ex parte in the lower Court)

... Respondents

Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act against the judgment and decree dated 29.03.2006 made in MACT O.P.No.65 of 2003 on the file of the Additional District cum Sessions Judge, Fast Track Court, (Motor Accident Claims Tribunal), Vellore.

For Appellant : Mr.M.J.Vijayaraghavan

For Respondent 1 : No appearance



C.M.A.No.884 of 2017

J U D G M E N T

WEB COPY

This Civil Miscellaneous Appeal arises against the award passed by learned Additional District cum Sessions Judge, Fast Track Court, (Motor Accident Claims Tribunal), Vellore in M.C.O.P.No.65 of 2003 on 29.03.2006.

2. The appellant is the insurance company. On 31.08.2002 at about 5.00 p.m, the claimant/first respondent was taking a patient from Government Hospital, Gudiyatham to GPH, Vellore for admission in an ambulance bearing registration No.TN-01/G-0078. The claimant/first respondent drove his ambulance with all care and by observing the traffic rules. While the ambulance was nearing Poigai Samathuvapuram, a lorry bearing registration No.MDJ-5010 belonging to the second respondent driven by its driver in a rash and negligent manner, without observing the traffic rules, hit against the ambulance. Due to the said accident, the claimant/first respondent sustained grievous injuries and the Doctor has certified that he got 25% permanent disability. Hence, the claimant/first respondent claimed compensation for a sum of Rs.5,00,000/-.



C.M.A.No.884 of 2017

3. Before the Tribunal, on behalf of the claimant, the claimant and a doctor were examined and 8 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)Disability	:	Rs. 2,00,000/-
(b)Pain and suffering	:	Rs. 10,000/-
(c)Medical expenses	:	Rs. 29,858/-
(d)Transportation & Extra Nourishment	:	Rs. 5,000/-

		Rs. 2,44,858/-

The said sum was directed to be paid by the first respondent along with interest at 7.5% 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 a sum of Rs.2,00,000/- towards disability and the same is exorbitant. Normally, a sum of Rs.1,000/- alone would be awarded to the victim per percentage of disability.



C.M.A.No.884 of 2017

6. In the light of the submission made by the learned counsel appearing for the appellant, this Court modifies the award of the Tribunal as follows:

<i>S.No.</i>	<i>Particulars</i>	<i>Award of Tribunal</i>	<i>Reduced amount</i>	
1.	Compensation for Disability	Rs. 2,00,000/-	Rs. 25,000/-	Reduced
2.	Pain and Suffering	Rs. 10,000/-	Rs. 10,000/-	Confirmed
3.	Transportation and Extra Nourishment	Rs. 5,000/-	Rs. 5,000/-	Confirmed
4.	Medical Expenses	Rs. 29,858/-	Rs. 29,858/-	Confirmed
		Rs. 2,44,858/-	Rs. 69,858/-	

The said sum of Rs.69,858/- shall be deposited together with interest at 7.5% from the date of petition till the date of realization.

8. In the result, this Civil Miscellaneous Appeal is partly allowed. The compensation awarded by the Tribunal i.e., Rs.2,44,858/- is reduced to Rs.69,858/-. No costs. Consequently, the connected miscellaneous petition is closed.



C.M.A.No.884 of 2017

9. It is represented that the entire amount as awarded by the Tribunal stands deposited. The first respondent/claimant is at liberty to withdraw the sum on due application as found payable in keeping with the present order. The sum in excess shall be refunded to the appellant insurance company.

27.04.2023

Index:yes/no
Internet:yes/no
mp

To
The Additional District cum Sessions Judge,
Fast Tract Court, Motor Accidents Claims Tribunal,
Vellore.



WEB COPY



C.M.A.No.884 of 2017

A.A.NAKKIRAN.J.,

mp

C.M.A.No.884 of 2017

27.04.2023