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C.M.A.No.2189 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2023

CORAM

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.2189 of 2019
and Cros.Obj.No.19 of 2020

C.M.A.No.2189 of 2019

The District Rural Development Authority
Block Development Officer (B.D.O.)
Chengam Panchayat Union, Chengam Town
Tiruvannamalai District

.. Appellant

Versus

1.Kaleel

2.The District Collector
District Collector Office, Vengikkal
Thiruvannamalai District
Thiruvannamalai

3.Velmurugan

.. Respondents

Cros.Obj.No.19 of 2020

Kaleel

.. Appellant

Versus

The District Rural Development Authority
Block Development Officer (B.D.O.)
Chengam Panchayat Union
Chengam Town
Tiruvannamalai District



C.M.A.No.2189 of 2019

2. The District Collector
District Collector Office, Vengikkal
Thiruvannamalai District
Thiruvannamalai

3. Velmurugan

.. Respondents

CMA.No.2189 of 2019: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree of the Motor Accidents Claims Tribunal, the Special Sub Court, Thiruvannamalai made in M.C.O.P.No.566 of 2013 dated 17.12.2015.

Cros.Obj.No.19 of 2020: Cross Objection filed under Order 41 Rule 22 of CPC, against the Award dated 17.12.2015, made in MCOP.No.566 of 2013, on the file of the Motor Accidents Claims Tribunal, the Special Sub Court, Thiruvannamalai.

For Appellant : Mr.K.Dhananjayan for appellant
in CMA and 1st Respondent in Cross
Objection.

For Respondents : Mrs.A.Subadra for R1
and Cross Objector in Cross Objection

COMMON JUDGMENT

The Civil Miscellaneous Appeal has been filed against the Judgment and Decree of the Motor Accidents Claims Tribunal, the Special Sub Court, Thiruvannamalai made in M.C.O.P.No.566 of 2013 dated 17.12.2015.



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2.The District Rural Development Authority is the Appellant herein seeking to challenge the award passed by the Tribunal in M.C.O.P.No.566 of 2013 on the ground of quantum.

3. The third respondent is the driver of the offending vehicle and the second respondent is the administrative head of the appellant. The first respondent is the claimant in the claim petition. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

4. On 19.04.2008 at 03.00 PM, the claim petitioner/first respondent was hit by the third respondent driver at Tiruvannamalai to Bangalore high road and the claim petitioner sustained fractures at left thigh, injuries at his left leg, left toe and all over the body. The claim petitioner filed a claim petition before the Tribunal claiming Rs.10,00,000/- as compensation.

5. During the trial before the Tribunal, the Claim Petitioner was examined himself as PW1. Ex.P1 to P6 were marked. Ex.P1 is the AR Copy, Ex.P3 is the Discharge summary & Ex.P5 is the Disability Certificate of the



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claimant. The Tribunal on consideration of both oral and documentary evidences came to conclusion that the accident has taken place due to the rash and negligent driving of the driver of the offending vehicle alone and the claim petitioner/first respondent had sustained grievous injuries, accordingly, fixed the negligence liability both on the appellant authority as the offending vehicle is a Government vehicle, which is exempted from insurance. Considering the age of the petitioner, i.e., 34 years, as per the medical records namely P2 to P4, the Trial Court fixed the notional income as Rs.6,000/- per month. It further accepted the evidence of PW2/Doctor fixing the permanent disability of the claim petitioner as 50%. As the multiplier for 34 years of age is 16 as per Sarala Verma's case reported in **2009 2 TN MAC 1 (SC)** , it fixed the functional disability of the claim petitioner as Rs.5,76,000/- (i.e., Rs.6000 x 12 x 16 x 50% (functional disability) = Rs.5,76,000). Furthermore, the Trial Court granted transport expenses as Rs.20,000/-, extra nourishment at Rs.25,000/-, pain and suffering as Rs.65,000/-, damages to cloths as Rs.3000/-, totalling to the tune of Rs.6,89,000/-.



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6. After hearing the counsel for the Appellant Authority and also taking note of the plea raised by the Appellant Authority, this Court is of the considered view that the percentage of functional disability of the claimant should be reduced and the same is hereby reduced to 40%. Accordingly, the award amount is modified as below:

<i>Calculation</i>	<i>Rs.</i>
Functional Disability (Rs.6000x12x16x40%)	Rs.4,60,800/-
Transport Expenses	Rs.20,000/-
Extra nourishment	Rs.25,000/-
Pain and sufferings	Rs.65,000/-
Damages to clothes	Rs.3,000/-
Total compensation is hereby fixed at	Rs.5,73,800/-

7. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed to the extent indicated above. Accordingly, the compensation awarded is reduced from Rs.6,89,000/- to Rs.5,73,800/-. The rate of interest awarded by the Tribunal remains in tact. No Costs. Consequently, the cross objection petition is dismissed.



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(ii) the Appellant Authority is directed to deposit the modified reduced award amount before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) On such deposit being made, the claimant is permitted to withdraw his share in the award amount with proportionate accrued interest and costs, as per the ratio of apportionment made by the Tribunal, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) If at all, the Appellant Authority had already deposited the awarded compensation amount, after satisfaction of the award, the Tribunal is directed to refund the surplus deposited money taking note of the reduced compensation amount herein, to the Appellant Authority.

07.06.2023

Internet : Yes/No
Speaking Order/Non-Speaking Order
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To

The Presiding Officer,
Motor Accidents Claims Tribunal,
The Special Sub Court, Thiruvannamalai



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A.A.NAKKIRAN, J.

dhk

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