



WEB COPY



C.M.A.Nos.3745 and 3744 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.Nos.3745 and 3744 of 2019

A.Suresh ... Appellant in C.M.A.3745/2019
S.Haripriya (Minor)
Rep. by her father and next friend
Mr.A.Suresh ... Appellant in C.M.A.3744/2019

Vs.

1.A.Muralidharan

2.The New India Assurance Co. Ltd.,
No.45, Moore Street,
Chennai – 600 001. ... Respondents in both the C.M.As.

Common Prayer:

Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 11.01.2018 in M.C.O.P.Nos.4248 and 4245 of 2014 respectively, on the file of Motor Accidents Claims Tribunal (Special Sub Court No.1), Chennai.

For Appellants : Mr.K.Varadha Kamaraj

For Respondents : R1 – No Appearance
in C.M.A.3745/2019
R1 – NRN
in C.M.A.3744/2019
Mr.G.Sukumar for R2
in both the C.M.As.



C.M.A.Nos.3745 and 3744 of 2019

COMMON JUDGMENT

WEB COPY

These appeals have been filed by the appellants/ claimants seeking enhancement of the compensation awarded by the Motor Accidents Claims Tribunal (Special Sub Court No.1), Chennai, in the judgment dated 11.01.2018 made in M.C.O.P.Nos.4248 and 4245 of 2014 respectively.

2.The brief facts of the case is that on 15.04.2014 at about 08.45 hours the petitioner in MCOP No.4248 of 2014 was riding the motorcycle bearing Registration No.TN-22-BC-2064 along with the minor petitioner in MCOP No.4245 of 2014 as pillion rider in Sriperumbudur Kundrathur Village near Gerugambakkam. At that time, the car bearing Registration No.TN-10-X-8676 came in a rash and negligent manner in the opposite direction and dashed against the motorcycle, due to which, the claimants/ appellants sustained grievous injuries.

3.Thereafter, the injured appellants filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.10 Lakhs and Rs.10 Lakhs respectively. After adjudication, the Tribunal,



C.M.A.Nos.3745 and 3744 of 2019

awarded a sum of Rs.2,72,200/- and Rs.4,05,600/- respectively, with interest at the rate of 7.5% from the date of petition till the date of realization and cost and directed the second respondent Insurance Company to pay the compensation. Aggrieved by the same, the injured claimants have filed these appeals seeking enhancement of compensation.

4.The learned counsel appearing for the appellants claimants submitted that the Tribunal did not adjudicate the issue properly and awarded only a meagre sum of compensation. This Court may enhance the amount awarded as compensation.

5.The learned counsel appearing for the second respondent Insurance Company submitted that the Tribunal after considering all the factual aspects, awarded the compensation which is just and reasonable and hence, the impugned judgment warrants no interference.

6.Heard the arguments advanced by the learned counsel appearing for the appellants claimants as well as the learned counsel appearing for the second respondent Insurance Company and perused



C.M.A.Nos.3745 and 3744 of 2019

the materials available on record.

WEB COPY

7. Admittedly, on 15.04.2014 at about 08.45 hours the petitioner in MCOP No.4248 of 2014 was riding the motorcycle along with the minor petitioner in MCOP No.4245 of 2014 as pillion rider in Sriperumbudur Kundrathur Village near Gerugambakkam. At that time, the car owned by the first respondent and insured with the second respondent came in a rash and negligent manner in the opposite direction and dashed against the motorcycle, due to which, the claimants/ appellants sustained grievous injuries.

8. Perusal of the impugned judgment reveals that the amount awarded by the Tribunal for disability is meagre. At the relevant point of time, Rs.4,000/- per percentage was awarded, however, the Tribunal has awarded only Rs.3,000/- per percentage of disability. Hence, this Court is inclined to modify the compensation awarded by the Tribunal.

9. In C.M.A.3745 of 2019 (M.C.O.P.No.4248 of 2014):

(i) The Tribunal has fixed the disability of the injured claimant as 20%. Hence, if a sum of Rs.4,000/- per percent is awarded, the



C.M.A.Nos.3745 and 3744 of 2019

amount for disability works out to Rs.80,000/- [$20\% \times \text{Rs.4,000/-} = \text{Rs.80,000/-}$]. Accordingly, the amount awarded for disability is enhanced to Rs.80,000/- from Rs.60,000/-. The amount awarded by the Tribunal under the other heads, in the opinion of this Court, are just and reasonable and the same are confirmed.

(ii) Accordingly, the appellant/ claimant is entitled to a total compensation of Rs.2,92,200/- with interest at the rate of 7.5% from the date of petition till the date of realization. The second respondent Insurance Company shall deposit the modified/ enhanced award amount with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

10. In C.M.A.3744 of 2019 (M.C.O.P.No.4245 of 2014):

(i) The Doctor has assessed the disability of the injured claimant as 45%. Since the assessment of disability varies from Doctor to Doctor, this Court fix the disability of the claimant as 35% and award a sum of Rs.4,000/- per percent of disability. Hence, the amount awarded for disability works out to Rs.1,40,000/- [$35\% \times \text{Rs.4,000/-} = \text{Rs.1,40,000/-}$]. Accordingly, the amount awarded for disability is enhanced to Rs.1,40,000/- from Rs.90,000/-. The amount awarded



C.M.A.Nos.3745 and 3744 of 2019

by the Tribunal under the other heads, in the opinion of this Court, are just and reasonable and the same are confirmed.

(ii)Accordingly, the appellant/ claimant is entitled to a total compensation of Rs.4,55,600/- with interest at the rate of 7.5% from the date of petition till the date of realization. The second respondent Insurance Company shall deposit the modified/ enhanced award amount with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

11.The civil miscellaneous appeals are allowed on the above terms. The judgment and decree dated 11.01.2018 made in M.C.O.P.Nos.4248 and 4245 of 2014 respectively, by the Motor Accidents Claims Tribunal (Special Sub Court No.1), Chennai, is modified to the above extent.

12.The second respondent Insurance Company is directed to deposit the modified/ enhanced award amount before the Tribunal within a period of four weeks from the date of receipt of a copy of this judgment, less the amount if any, already deposited. On such deposit, the appellant in C.M.A.No.3745 of 2019 (M.C.O.P.No.4248 of 2014)/



C.M.A.Nos.3745 and 3744 of 2019

claimant is permitted to withdraw the modified/ enhanced award amount with accrued interest and costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The appellant in C.M.A.No.3744 of 2019 (M.C.O.P.No.4245 of 2014)/ claimant is permitted to withdraw the modified/ enhanced award amount, along with accrued interest and costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal and on production of necessary proof with regard to her majority. If the appellant is still minor, the modified/ enhanced award amount shall be kept in an interest yielding fixed deposit with anyone of the Nationalized Bank, initially, for a period of three years to be renewed at periodic intervals until she attain majority and the interest derived from out of the said share of the minor shall be paid to her Father Mr.A.Suresh every quarter to be utilized for the welfare of the said minor.

13.The appellants/ claimants shall not be entitled to any interest for the period of delay, if any, in filing the appeals. The appellants/ claimants are directed to pay the requisite Court fee for the enhanced compensation amount, if required.



WEB COPY



C.M.A.Nos.3745 and 3744 of 2019

M.DHANDAPANI,J.
pri

14.The civil miscellaneous appeals are allowed. No costs.

21.11.2023

pri

Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal
(Special Sub Court No.1), Chennai.

**C.M.A.Nos.3745 and
3744 of 2019**

21.11.2023