



C.M.A.(MD)No.83 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD)No.83 of 2023
and
C.M.P.(MD)No.925 of 2023

M/s.National Insurance Company ltd
through its Branch Manager,
No.24, Kamarajar Bazar,
Bodinayakanur

...Appellant/3rd respondent

Vs.

1.Karuppiah
2.T.Sornamani
3.Swarnalatha

...Respondents

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree at 31.01.2020 passed in M.C.O.P.No.365 of 2006 on the file of MACT/Sub Court, Periyakulam.

For Appellant : Mr.P.Malini
For R1 : No Appearance



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JUDGMENT

Despite service of notice and the name was printed in the cause list, none appeared for the first respondent.

2.This Civil Miscellaneous Appeal has been filed against the compensation awarded by the Motor Accident Claims Tribunal / Sub Court, Periyakulam in M.C.O.P.No.365 of 2006 dated 31.01.2020.

3.The brief facts, leading to the filing of this Civil Miscellaneous Appeal, are as follows:-

(i) For the sake of convenience, the parties are referred to herein, as per their rank before the Trial Court.

(ii) on 03.09.2006 at about 8.45 hours, when the petitioner was proceeding in his Moped as a billion rider along with one Raja in the Silamarathupatti-Dombucheri main road in the extreme left side observing all the traffic rules, a Mahindra Van bearing registration No.TN-60-Z-3768 belonging to the second respondent driven by the first respondent in a rash and negligent manner in an opposite direction, dashed against the Moped, as a result, the



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petitioner and the rider of the motorcycle were thrown out of the motorcycle. The petitioner sustained grievous injuries and he has also suffered chest pain. Hence, he was shifted to the Theni medical college hospital for further treatment from Government Hospital, Bodinayakanur, in which he was originally appointed. A case was also registered in Crime No.150 of 2006 against the driver of the van. Hence, the compensation of Rs.10,00,000/- was claimed by the claimant.

(iii) The third respondent filed a counter affidavit before the tribunal stating that there was negligence on the part of the rider of the two wheeler. Further, the rider of the two wheeler did not have any valid license at the time of accident and the vehicle is not insured with the third respondent. Hence, the third respondent disputed the liability.

4. Before the Tribunal, the claimant himself was examined as P.W.1 and Ex.P1 and Ex.P2 were marked. On the side of the respondents no oral and documentary evidence had been marked.

5.The tribunal on appreciation of entire evidence available on record had held that the driver of the bus was negligent in driving the van and he was responsible for the accident and awarded the compensation as follows:



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S.No.	Description	Amount
1.	Medical Bill	Rs.2,42,426/-
2.	Transportation to Hospital	Rs. 500/-
3.	Extra nourishment	Rs. 2,000/-
4.	Pain and suffering	Rs. 2,000/-
	Total	Rs.2,46,962/-

Challenging the same, the present Civil Miscellaneous Appeal has been filed by the Insurance Company,

6.I have heard the learned counsel appearing on either side and also perused the materials available on record.

7.The learned counsel appearing for the appellant would submit that no evidence has been produced to prove that the petitioner had sustained any grievous injuries in the alleged accident. Whereas, he has produced some medical bills relating to the heart disease namely, Coronary Artery Disease, which has been taken into consideration by the Tribunal in awarding compensation. There is no nexus between Disease and the accident, whereas the Tribunal has simply awarded the compensation. No wound or injury certificate or AR copy has been filed by



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the petitioner. The Tribunal has awarded the compensation without any basis.

Hence, he seeks to set aside the compensation.

8. In view of the above submission, now the point arises for consideration in this appeal is:

(1) Whether the Tribunal is right in awarding compensation based on the medical bills, which is wholly unconnected with the accident?

9. On perusal of the judgment of the Tribunal and the documents, except Ex.P1, FIR copy, nothing has been filed to substantiate the nature of injuries sustained by the petitioner/first respondent herein. Though the accident is not disputed, to show that the petitioner namely, the claimant sustained many grievous injuries, no materials whatsoever have been filed. The Tribunal has relied upon Ex.P2, medical bills, to arrive at the compensation. But the medical bills are related to the treatment undergone by the claimant for his Coronary Artery Disease. The Tribunal has mechanically awarded the compensation without application of mind and same could not be sustained in the eye of law.



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10.It is to be noted that the Tribunal has found that there is nexus between the accident and the disease. Such finding is without any basis. It is only surmise and conjecture of the Tribunal. The disease namely, Coronary Artery Disease is not an immediate one and it is a prolonged heart disease. It could have developed long back. Therefore, without any other evidence to show that the claimant has sustained injuries in the accident, the Tribunal has awarded the compensation towards the medical expenditure for the disease. Though in some cases, sudden accident may cause cardiac arrest, the disease suffered by the claimant is totally different from that perspective. Mere sustaining injuries in an accident will not lead to have the Disease. It is also relevant to note that the petitioner was admitted in the hospital only on 05.09.2006, after two days of the alleged accident for the said Disease. Such view of the matter, the compensation awarded by the Tribunal has to be set aside.

11.As the claimant has not produced any materials to show that he has suffered grievous injuries, the injuries sustained by him should be considered as simple injuries and at the most the claimant is entitled to a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) towards the simple injuries sustained by him



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in the alleged accident. Apart from that the claimant is entitled to have Rs.2,000/- (Rupees Two Thousand only) towards Extra nourishment, Rs.2,000/- (Rupees Two Thousand only) for pain sufferings and Rs.500/- (Rupees Five Hundred only) towards transportation. Totally, the claimant is entitled to the compensation as stated below:

S.No.	Head	Amount
1.	For the Injuries sustained	Rs.25,000/-
2.	For Extra Nourishment	Rs. 2,000/-
3.	For Pain and sufferings	Rs. 2,000/-
4.	For Transportation	Rs. 500/-
	Total	Rs.29,500/- Rounded off Rs.30,000/-

12.In fine, this Civil Miscellaneous Appeal is allowed and the award granting compensation of Rs.2,46,962/- is modified as stated above.

13.The appellant is directed to deposit the compensation amount i.e., Rs.30,000/- (Rupees Thirty Thousand only) as modified by this Court with interest at the rate of 7.5% per annum from the date of petition till the date of realization excluding the period from 15.07.2009 to 07.04.2019 to the credit of



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M.C.O.P.No.365 of 2006, on the file of the Motor Accident Claims Tribunal /Sub Court, Periyakulam within a period of one month from the date of receipt of a copy of this judgment, less the amount, if any already deposited. On such deposit, the claimant is permitted to withdraw the said amount, less the amount if any already withdrawn, by making necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

15.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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To

1.The Motor Accident Claims Tribunal/
Sub Court, Periyakulam

2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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N.SATHISH KUMAR, J.

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