



C.M.A.Nos.4064 and 4065 of 2008

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.Nos.4064 and 4065 of 2008

Murugan @ Murugesh ... Appellant in C.M.A.No.4064 of 2008

Veerasamy ... Appellant in C.M.A.No.4065 of 2008

Vs.

1.Syed Hussain

2.S.I.Sathakathullah

3.The United India Insurance Company Limited,
Christo Building Bank Road,
Ooty-634 001.

4.S.Sellathal

5.The New India Assurance Company Limited,
No.34/35, Bye-pass Road,
Dharapuram,
Erode District.

... Respondents in both appeals



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COMMON PRAYER : Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the common judgment and decree dated 02.06.2008 passed in M.C.O.P.Nos.647 and 648 of 2006 on the file of the Additional District and Sessions Court (Fast Track Court No.III), Dharapuram.

In both appeals

For Appellant	:	Mr.I.Pragadeesh
For Respondents	:	R1-notice dispensed with Mrs.I.Malar for R3 No appearance for R2 and R4 Ms.A.Salomi for R5

COMMON JUDGMENT

Both these appeals can be taken up together since the issue involved is common and hence, this common judgment is passed.

2. The case of the claimants is that on 05.01.2006 at about 01.30 a.m. the appellants/claimants were traveling in a tractor, at that time, the offending vehicle belonging to the second respondent was driven in a rash and negligent manner and it dashed on the tractor and as a result, the



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appellants/claimants and others sustained grievous injuries. It is under these circumstances, the claimants have filed the claim petitions in M.C.O.P.Nos.647 & 648 of 2006 before the Motor Accident Claims Tribunal, Additional District and Sessions Court (FTC III), Dharapuram.

3. The Tribunal, on considering the facts and circumstances of the case and on appreciation of evidence, came to a conclusion that the accident has occurred only due to the rash and negligent driving on the part of the driver of the van belonging to the second respondent. While deciding the compensation under various heads, the Tribunal came to a conclusion that the following compensation can be awarded:

M.C.O.P.No.648 of 2006 [C.M.A.No.4064 of 2008]

Sl.No.	Compensation awarded under the head	Amount (in Rs.)
1.	Medical expenses	72,500/-
2.	Disability	48,000/-
3.	Pain and suffering	40,000/-
4.	Partial loss of income	5,000/-



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5.	Nutrition	2,500/-
6.	Future medical expenses	2,500/-
7.	Transportation	1,500/-
	Total	1,72,000/-

The amount of Rs.1,72,000/- was directed to be paid along with interest at 7.5% p.a.

M.C.O.P.No.647 of 2006 [C.M.A.No.4065 of 2008]

Sl.No.	Compensation awarded under the head	Amount (in Rs.)
1.	Disability	44,000/-
2.	Medical Bills	39,000/-
3.	Pain and suffering	19,000/-
4.	Transportation	1,500/-
5.	Nutrition	1,500/-
6.	Partial Loss of income	4,500/-
7.	Future medical expenses	2,500/-
	Total	1,12,000/-

The amount of Rs.1,12,000/- was directed to be paid along with interest at 7.5% p.a.



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4. Learned counsel for the appellants/claimants submits that the compensation awarded by the Tribunal is very much on the lower side considering the nature of injuries sustained by the appellants/claimants.

5. Learned counsel for the third respondent insurance company submitted that the Tribunal has passed a reasonable award and the same does not require the interference of this Court.

6. Considering the nature of injuries sustained by the appellant in C.M.A.No.4065 of 2008 and the fact that the same will have impact on his avocation, this Court is of the view that a sum of Rs.2,500/- will be granted per percentage of disability. Accordingly, a sum of Rs.55,000/- [22*2500] is granted towards disability. The appellant has produced medical bills to the tune of Rs.39,750/- and such sum is granted towards medical bills. This Court also finds that the compensation awarded under the heads pain and



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suffering, transportation, nutrition, future medical expenses and partial loss of income is on the lower side and the same is enhanced to Rs.40,000/-, Rs.1,750/-, Rs.15,000/-, Rs.10,000/- and Rs.10,000/- respectively.

7. Accordingly, the modified compensation payable would be

M.C.O.P.No.647 of 2006 [C.M.A.No.4065 of 2008]

Sl.No .	Compensation awarded under the head	Amount awarded by the Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1.	Disability	44,000/-	55,000/-
2.	Medical Bills	39,000/-	39,750/-
3.	Pain and suffering	19,000/-	40,000/-
4.	Transportation	1,500/-	1,750/-
5.	Nutrition	1,500/-	15,000/-
6.	Partial Loss of income	4,500/-	10,000/-
7.	Future medical expenses	2,500/-	10,000/-
	Total	1,12,000/-	1,71,500/-

8. Considering the nature of injuries sustained by the appellant in



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C.M.A.No.4064 of 2008 and the fact that the same will have impact on his avocation, this Court is of the view that a sum of Rs.2,500/- will be granted per percentage of disability. Accordingly, a sum of Rs.80,000/- [32*2500] is granted towards disability. The appellant has produced medical bills to the tune of Rs.73,577/- and hence, a sum of Rs.73,600/- is granted towards medical bills. This Court also finds that the compensation awarded under the heads nutrition, future medical expenses and partial loss of income is on the lower side and the same is enhanced to Rs.15,000/-, Rs.10,000/- and Rs.10,000/- respectively. The compensation awarded under the heads pain and sufferings and transportation expenses is just and reasonable and the same is hereby confirmed.

9. Accordingly, the modified compensation payable would be

M.C.O.P.No.648 of 2006 [C.M.A.No.4064 of 2008]

Sl.No .	Compensation awarded under the head	Amount awarded by the Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
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1.	Medical expenses	72,500/-	73,600/-
2.	Disability	48,000/-	80,000/-
3.	Pain and suffering	40,000/-	40,000/-
4.	Partial loss of income	5,000/-	10,000/-
5.	Nutrition	2,500/-	15,000/-
6.	Future medical expenses	2,500/-	10,000/-
7.	Transportation	1,500/-	1,500/-
	Total	1,72,000/-	2,30,100/-

10. In the result, these Civil Miscellaneous Appeals are partly allowed by enhancing the award amount from Rs.1,72,000/- to Rs.2,30,100/- in respect of C.M.A.No.4064 of 2008 and from Rs.1,12,000/- to Rs.1,71,500/- in respect of C.M.A.No.4065 of 2008. The third respondent is directed to deposit the compensation amount of Rs.2,30,100/- in respect of C.M.A.No.4064 of 2008 and Rs.1,71,500/- in respect of C.M.A.No.4065 of 2008 now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.Nos.647 and 648 of 2006 on the file of the Additional District and



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Sessions Court (Fast Track Court No.III), Dharapuram. On such deposit, the appellants are permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn, by making proper application before the Tribunal. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. There shall be no order as to costs.

18.11.2024

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

To

1.The Additional District and Sessions Court (Fast Track Court No.III),
Dharapuram.

2. The Section Officer,
V.R. Section,
High Court, Chennai.



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M.DHANDAPANI, J.

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