

C.M.A. Nos.1119 of 2012 and 145 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 05.07.2024

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. Nos.1119 of 2012 and 145 of 2013

R.Vikram Prethesh .. Appellant in C.M.A. No.1119 of 2012 and
1st respondent in C.M.A. No.145 of 2013

Vs.

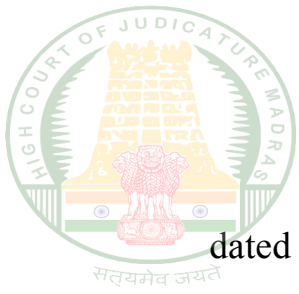
1.M/s.Parveen Travels (Pvt.) Ltd.,
Shop No.6, UMA Complex,
No.39, Medavakkam
Tank Road,
Kellys, .. 1st respondent in C.M.A. No.1119 of 2012
Chennai - 600 010. & 2nd respondent in C.M.A. No.145 of 2013

(C.M.A. No.1119 of 2012 - R1 set exparte before Trial Court)

(C.M.A. No.145 of 2013 - The second respondent was the first
respondent before the Tribunal and he remained exparte before the
Tribunal. Hence, the summons to the second respondent may be
dispensed with)

2.The New India Assurance Co. Ltd.,
C.D.U. IX Garden Apartments,
No.68, Purasawalkam, .. 2nd respondent in C.M.A.No.1119 of 2012
Chennai - 600 007. & appellant in C.M.A. No.145 of 2013

Prayer in both cases: Civil Miscellaneous Appeals filed under Section
173 of the Motor Vehicles Act, 1988 against the judgment and decree



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dated 29.08.2011 made in M.C.O.P. No.3171 of 2009 on the file of the V
Small Causes Court (Motor Accidents Claims Tribunal), Chennai.

For appellant in C.M.A. No.1119 of 2012 &
1st respondent in C.M.A. No.145 of 2013 : Mr.M.Mahendran

For 1st respondent in C.M.A. No.1119 of 2012 &
2nd respondent in C.M.A. No.145 of 2013 : Exparte

For 2nd respondent in C.M.A.No.1119 of 2012 &
appellant in C.M.A. No.145 of 2013 : Mr.K.Vinod

COMMON JUDGMENT

C.M.A. No.1119 of 2012 has been filed by the claimant seeking
enhancement of compensation.

C.M.A. No.145 of 2013 has been filed by the Insurance Company,
questioning the quantum of compensation awarded to the claimant, who
is the appellant in C.M.A. No.1119 of 2012.

2.Since both the C.M.As arise out of the very same award, they are
disposed of by a common judgment.

3.The appellant in C.M.A. No.1119 of 2012 sustained injuries as a
result of an accident caused by a vehicle, insured with the appellant in
C.M.A. No.145 of 2013.



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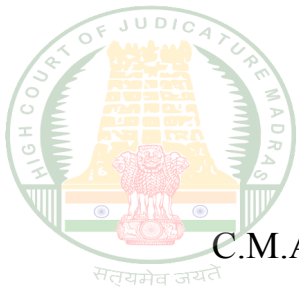
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4.The appellant in C.M.A. No.145 of 2013, aggrieved by the quantum of compensation awarded to the appellant in C.M.A. No.1119 of 2012 has filed C.M.A. No.145 of 2013, however, they are not aggrieved by the findings with regard to the negligence of the driver of the vehicle, insured with them.

5.The Tribunal, under the impugned award, has directed the appellant in C.M.A. No.145 of 2013 to pay the appellant in C.M.A. No.1119 of 2012 a compensation of Rs.1,74,000/- as detailed hereunder:

S.Nos.	Head	Amount awarded by the Tribunal
1.	Loss of earning	Rs. 60,000.00
2.	Transport to Hospital	Rs. 2,000.00
3.	Extra Nourishment	Rs. 15,000.00
4.	Damages to clothes	Rs. 2,000.00
5.	Medical expenses	Rs. 10,000.00
6.	Attender charges	Rs. 15,000.00
7.	Loss of amenities	Rs. 20,000.00
8.	Pain and suffering	Rs. 20,000.00
9.	Permanent disability	Rs. 30,000.00
	Total	Rs.1,74,000.00

6.The accident happened in the year 2009. The appellant in



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C.M.A. No.1119 of 2012, who is the claimant, sustained head injury of

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4th and 5th metacarpal bone left hand and also laceration over the chin and contusion in front of neck as a result of the accident caused by a vehicle, insured with the appellant in C.M.A. No.145 of 2013. The nature of injuries sustained by the claimant has not been disputed by the Insurance Company as seen from the evidence available on record. The Private Doctor had assessed the disability of the claimant at 20%. But the Tribunal, after giving due consideration to the nature of injuries sustained by the claimant, has reduced the disability to 15%.

7.This Court does not find any infirmity in the said assessment made by the Tribunal. The Tribunal has awarded disability compensation at Rs.30,000/- to the claimant, calculated at Rs.2,000/- per percentage of disability for 15% disability suffered by the claimant. Since the accident happened in the year 2009, the compensation awarded towards disability by the Tribunal is a just compensation and it cannot be interfered by this Court.

8.Though the Insurance Company has challenged the very same



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award on the ground that the quantum of compensation awarded by the

Tribunal is excessive, this Court, after giving due consideration to the compensation awarded by the Tribunal under various heads, which includes, Loss of earning, Transportation, Extra Nourishment, Damages to clothing, Medical expenses, Attender charges, Loss of amenities, Pain and suffering and Permanent disability, is of the considered view that neither the claimant, who is the appellant in C.M.A. No.1119 of 2012, nor the Insurance Company, who is the appellant in C.M.A. No.145 of 2013 are entitled to question the quantum of compensation awarded by the Tribunal as the compensation awarded by the Tribunal is a just compensation and there is no scope for interference by this Court. The over all compensation of Rs.1,74,000/- awarded to the appellant in C.M.A. No.1119 of 2012 is a just compensation.

9.In the result, there is no merit in both the appeals filed by the claimant as well as by the Insurance Company. Accordingly, both the appeals are dismissed.

10.Accordingly, the appellant/insurance company in C.M.A.



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No.145 of 2013 is directed to deposit the award amount of Rs.1,74,000/-, after deducting the amount already deposited, if any, together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit and cost to the credit of M.C.O.P. No.3171 of 2009 on the file of the V Small Causes Court (Motor Accidents Claims Tribunal), Chennai within a period of four weeks from the date of receipt of a copy of this judgment.

11.The appellant/claimant is permitted to withdraw the said amount, once it is deposited by the Insurance Company, by filing an appropriate application. On such an application being made, the Tribunal shall transfer the amount lying to the credit of M.C.O.P. No.3171 of 2009 to the bank account of the appellant/claimant directly through RTGS, within a period of one week thereafter. No costs.

05.07.2024

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To

- 1.The Motor Accident Claims Tribunal,
V Small Causes Court,
Chennai.
2. The Section Officer,
V.R. Section,
High Court, Madras.



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ABDUL QUDDHOSE, J.

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