



C.M.A.No.1963 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1963 of 2021
and C.M.P.No.10593 of 2021

The Branch Manager,
Shriram General Ins. Co. Ltd.,
2nd Floor, Mookambika Complex,
No.4, Lady Desika Road, Mylapore,
Chennai – 600 004.

...Appellant

Vs.

1.Mr.Vediyappan
2.Mr.K.Saravannan
3.Mr.K.Yuvaraj

4.The Branch Manager,
National Insurance Co. Ltd., Branch Office,
S.R.Complex, Rajam Thottam,
Salem Bhavani Main Road,
Sankari – 637 301.

...Respondents



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Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Decree and Judgment dated 21.02.2020 passed in M.C.O.P.No.548 of 2017, by the learned Motor Accident Claims Tribunal, Special District Court, Dharmapuri.

For Appellant : Ms.C.Bhuvanasundari

For Respondents : Mr.V.Kumaravelan for R1
R2 – died (steps due)
R3 – No appearance
Mr.S.Arun Kumar for R4

J U D G M E N T

This appeal is filed by the appellant Insurance Company challenging the Decree and Judgment dated 21.02.2020 passed in M.C.O.P.No.548 of 2017, on the file of the Motor Accident Claims Tribunal, Special District Court, Dharmapuri.

2.For the sake of convenience, the parties are referred to as per their ranking before the Tribunal.



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3.The petitioner is the claimant, the respondents 1 and 3 are the owners of the vehicle and the respondents 2 and 4 are the Insurance Companies before the Tribunal.

4.The brief fact of the case are as follows:

According to the petitioner, on 30.05.2017, he was driving a Taurus Lorry bearing Registration No.TN 52 J 6676 on Hosur – Krishnagiri National Highway at about 03.00 hours near Kundarapalli over bridge, a Lorry bearing Registration No.TN 23 AP 5002 with tyre load was stopped in the road without any signal and the petitioner could not identify the parked lorry and stop his Taurus Lorry. As a result, the petitioner dashed behind the parked lorry bearing Registration No.TN 23 AP 5002. The petitioner sustained fracture of right tibia and fracture of calcaneus and he was admitted to the Government Headquarters Hospital, Krishnagiri. After first aid treatment, he was shifted to Ganga Hospital, Coimbatore and treated as an inpatient till 02.06.2017. A case was registered in Crime No.197/2017 under Sections 279 and 337 of IPC by Gurubarapalli Police, Krishnagiri District. The petitioner filed a claim



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petition before the Tribunal in M.C.O.P.No.548 of 2017, the Tribunal awarded a sum of Rs.10,34,400/- as compensation. Aggrieved by the same, the present appeal has been filed.

5.Learned counsel appearing for the appellant submitted that the first respondent was driving the vehicle in a rash and negligent manner and did not see the lorry parked on the road had dashed behind the parked Lorry. She further submitted that though the injury sustained by the first respondent is simple in nature, the Tribunal has awarded excessive Compensation which is not sustainable. Hence, she prayed for appropriate orders.

6.Learned counsel appearing for the first respondent submitted that Lorry bearing Registration No.TN 23 AP 5002 was stopped in the road without any signal, the first respondent could not identify the parked lorry and stop his Taurus Lorry. He further submitted that the compensation awarded by the Tribunal is just and reasonable and no interference is required by this Court. Hence, he prayed for dismissal of the appeal.



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7.Heard learned counsel appearing for the appellant, learned counsel appearing for the first respondent, the learned counsel appearing for the fourth respondent and perused the materials available on record.

8.The accident and the manner in which the accident happened are not disputed. This appeal has been filed questioning the quantum of compensation as well negligence.

9.Before the Tribunal, the petitioner was examined as PW1 and on the side of the petitioner, 8 documents were marked as Exs.P1 to P8. On the side of the respondents, no witness was examined and no document was marked. On the side of the third party witness, a Disability Certificate issued by the Medical Board was marked as Ex.X1.

10.The Tribunal after elaborately discussing the factual aspects awarded a sum of Rs.80,000/- for pain & suffering, Rs.40,000/- for transport & extra nourishment, Rs.24,000/- for loss of income, Rs.2,00,000/- for loss of amenities (loss of marriage prospect &



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discomfort), Rs.1,50,000/- for loss of earning capacity, Rs.30,000/- for attender charges, Rs.36,125/- for medical expenditure and arrived at a total compensation of Rs.5,60,500/- with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

11.The amount awarded under the heads extra nourishment , transport charges and medical expenses, in the opinion of this Court is just and reasonable. The amount awarded under the head physical disability is excessive and this Court is inclined to reduce the amount awarded under the said head. Accordingly, the amount awarded under the head physical disability is reduced to Rs.3,15,000/- from Rs.6,80,400/-. The amount awarded under the head attender charges, in the opinion of this Court, is very meager and this Court is inclined to enhance the amount awarded under the said head. Accordingly, the amount awarded under the head attender charges is enhanced to Rs.10,000/- from Rs.5,000/-. Though the Tribunal has awarded Rs.25,000/- for loss of amenities, this Court is not inclined to award any amount for the same as it is not necessary.



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12. Accordingly, the compensation awarded by the Tribunal is re-assessed as follows:

S.No.	Description	Amount awarded by Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1.	Compensation for physical disability (45 % x 7,000)	6,80,400/-	3,15,000/-
2.	Pain and suffering	25,000/-	50,000/-
3.	Extra nourishment expenses	20,000/-	20,000/-
4.	Attender charges	5,000/-	10,000/-
5.	Transport charges	10,000/-	10,000/-
6.	Medical expenses	2,69,000/-	2,69,000/-
7.	Loss of amenities	25,000/-	-
	Total	Rs.10,34,400/-	Rs.6,74,000/-

13. On perusal of the records, it is seen that the compensation awarded by the Tribunal is contrary to law laid by the Hon'ble Apex Court in the case of *Raj Kumar vs. Ajay Kumar*, in the absence of any functional disability awarding compensation adopting the multiplier method is not sustainable.



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14.The claimant is entitled to a sum of Rs.6,74,000/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

15.The judgment and decree passed by the Motor Accident Claims Tribunal/Special District Court, Dharmapuri in M.C.O.P.No.548 of 2017 dated 21.02.2020, is modified to the above extent.

16.The appellant Insurance Company is directed to deposit the modified/enhanced award amount, if not deposited earlier before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment and permitted to withdraw the excess amount, if any. On such deposit being made, the first respondent/claimant is permitted to withdraw the amount along with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal.



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17.The first respondent/claimant shall not be entitled to any interest for the period of delay, if any, in filing the appeal.

18.The Civil Miscellaneous Appeal is partly allowed with the above terms. No costs. Consequently, connected miscellaneous petition is closed.

10.12.2024

Index: Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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To

1.The Motor Accidents Claims Tribunal,
Special District Court, Dharmapuri.

2.The Section Officer,
VR Section,
High Court of Madras, Chennai – 600 104.



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M.DHANDAPANI, J.

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