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C.M.A.No.1318 of 2020
and C.M.P.No.9536 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2024

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.1318 of 2020

and

C.M.P.No.9536 of 2020

The Branch Manager,
Reliance General Insurance Company Limited,
B.O.:15 (Old)/29 (New), North Usman Road,
T.Nagar, Chennai – 600 017.
B.O.: Shri Lakshmi Complex, 1st Floor,
Bharathi Street, Omalur Main Road, Salem – 4.
.Vs.

...Appellant

1.Kannan

2.A.Malaiarasan

...Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 28.01.2020 in M.C.O.P.460 of 2019 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.II, Salem.

For Appellant : Ms.C.Bhuvanasundari

For R1 : Mr.R.Navaneetha Krishnan



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C.M.A.No.1318 of 2020
and C.M.P.No.9536 of 2020

JUDGMENT

The appellant, the Reliance General Insurance Company Limited is the second respondent in M.C.O.P.460 of 2019 on the file of the Motor Accident Claims Tribunal, Salem. The first respondent filed the above said claim petition under Section 166 of the Motor Vehicles Act seeking compensation of Rs.20,00,000/- for the injuries sustained by him in a road accident that took place on 18.11.2018.

2. The brief case of the claimant is as follows :

On 18.11.2018, the claimant was riding his two wheeler bearing Registration No. TN-30-BY-1198 on Danishpet – Ramamoorthy Nagar road. When he was nearing Boomiyampatti Forest, a speeding car bearing Registration Number TN-90-C-8794 hit his two wheeler, as a result of which, the claimant fell down and sustained injuries all over his body. He was immediately rushed to Government Hospital, Omalur. After getting first aid in the said hospital, he got himself admitted in Ganga Medical Centre and Hospitals Private Limited, Coimbatore, where he was treated as



C.M.A.No.1318 of 2020
and C.M.P.No.9536 of 2020

an inpatient for nineteen days.

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3. According to the claimant, the rash and negligent driving of the driver of the car bearing Registration Number TN-90-C-8794 was the cause of the accident and that since the said car was insured with the present appellant, the Reliance General Insurance Company Limited, the owner of the vehicle and the insurer are jointly and severally liable to pay compensation to him.

4. In the Tribunal, the owner of the car remained absent and was set *ex parte*. The appellant, the Reliance General Insurance Company Limited contested the claim petition on all the grounds available to the insurer under Section 170 of the Motor Vehicles Act.

5. The Tribunal, vide its orders dated 28.01.2020, fastened negligence on the part of the driver of the car bearing Registration Number TN-90-C-8794 and directed the appellant, Insurance Company to pay compensation of Rs.8,24,769/- to the claimant together with interest at the rate of 7.5% per annum from the date of petition till the date of realization.



C.M.A.No.1318 of 2020
and C.M.P.No.9536 of 2020

The Tribunal also held that the liability of the owner of the car and the insurer are joint and several.

6. The present appeal is filed questioning the quantum of compensation awarded by the Tribunal.

7. Heard Ms.C.Bhuvanasundari, learned counsel for the appellant and Mr.R.Navaneetha Krishnan, learned counsel for the first respondent.

8. A perusal of the discharge summary (Ex.P4) issued by Ganga Medical Centre and Hospitals Private Limited, Coimbatore, shows that the claimant had sustained the following injuries :

- i. Type I open fracture right distal ulna with comminuted right distal radius fracture
- ii. Closed left distal radius fracture
- iii. Closed right PCL avulsion with comminuted fracture
- iv. Lacerated wound right thigh
- v. Head injury ; scalp abrasion

He was admitted as an inpatient from 18.11.2018 to 06.12.2018. The



C.M.A.No.1318 of 2020
and C.M.P.No.9536 of 2020

Medical Board attached to Government Hospital, Salem, assessed the partial permanent disability of the claimant as 30%. Since there is no functional disability, the Tribunal fixed a sum of Rs.3,000/- per percentage of disability and awarded a sum of Rs.90,000/- towards partial permanent disability. Considering the age of the claimant and the year of accident, a sum of Rs.7,000/- per percentage of disability is awarded. Therefore, a sum of Rs.2,10,000/- (30 x 7000) is awarded towards partial permanent disability.

9. The Tribunal had awarded exorbitant amounts for pain and sufferings, loss of amenities, future medical expenses, loss of income, transportation charges, extra nourishment and attendant charges. In the opinion of this Court, these amounts have to be scaled down. The following tabular column would show the amount awarded by the Tribunal and the amount awarded by this Court :

<i>S.No</i>	<i>Heads</i>	<i>Amount awarded by Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>
1.	Partial permanent disability	90,000/-	2,10,000/- (30x7000)



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C.M.A.No.1318 of 2020
and C.M.P.No.9536 of 2020

S.No	Heads	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)
2.	Pain and sufferings	40,000/-	20,000/-
3.	Loss of amenities	50,000/-	10,000/-
4.	Medical bills	3,75,769/-	3,75,769/-
5.	Future medical expenses	75,000/-	25,000/-
6.	Loss of income	88,000/-	33,000/- (11,000 x 3)
7.	Transportation	30,000/-	10,000/-
8.	Extra nourishment	50,000/-	10,000/-
9.	Attendant charges	25,000/-	10,000/-
10.	Damage to clothes	1,000/-	1,000/-
TOTAL		Rs.8,24,769/-	Rs.7,04,769/-

10. Thus, the compensation awarded by the Tribunal is hereby scaled down to Rs.7,04,769/- which would carry interest at the rate of 7.5% per annum.

11. In the result,

i. The Civil Miscellaneous Appeal is partly allowed. No costs.

Consequently, connected Civil Miscellaneous Petition is closed.



C.M.A.No.1318 of 2020
and C.M.P.No.9536 of 2020

WEB COPY

- ii. The compensation awarded by the Tribunal is hereby scaled down to Rs.7,04,769/-.
- iii. The appellant, the Reliance General Insurance Company Limited is directed to deposit the modified award amount i.e. Rs.7,04,769/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of a copy of this order / uploading of this order to the credit of M.C.O.P.460 of 2019 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.II, Salem.
- iv. On such deposit being made, the claimant / first respondent is permitted to withdraw the same with accrued interest and costs, after following due process of law.

19.10.2024

Index : Yes/No
Speaking / Non-speaking order
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C.M.A.No.1318 of 2020
and C.M.P.No.9536 of 2020

To

1.The Motor Accident Claims Tribunal,
Special Sub Court No.II, Salem.

2.The Section Officer, VR Section, Madras High Court, Chennai.



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C.M.A.No.1318 of 2020
and C.M.P.No.9536 of 2020

R. HEMALATHA, J.

mtl

CMA.No.1318 of 2020
and C.M.P.No.9536 of 2020

19.10.2024