



C.M.A.No.2912 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

C.M.A.No. 2912 of 2021

Selvam

... Appellant

Vs.

1. M/s.OMR Travel Access Pvt. Ltd.,
No.2/62, Gowri Thangal Street,
Navalur, Kancheepuram District – 603 103.

2. ICICI Lombard General Insurance Company
Limited, No.140, Chottabai Centre,
II Floor, Nungambakkam High Road,
Chennai – 600 034.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 10.06.2019 passed in M.A.C.T.O.P.No.988 of 2013 on the file of Motor Accidents Claims Tribunal, III Court of Small Causes, Chennai.

For Appellant : Mr.V.Velu

For Respondents : Mr.V.Sivakolappan for R2

Dispensed with for R1



C.M.A.No.2912 of 2021

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JUDGMENT

Aggrieved by the award passed by the Motor Accidents Claims Tribunal (III Court of Small Causes), Chennai in M.A.C.T.O.P. No.988 of 2013, the claimant has filed this appeal, seeking enhancement of compensation.

2. In view of the judgment being passed, notice to the first respondent is dispensed with.

3. Brief facts are that on 27.03.2021 at about 07.30 hours, when the appellant/claimant was travelling as a pillion rider in a two wheeler bearing Regn. No.TN 21 3645, near Kannagapattu Pillaiyar Koil, a bus bearing Reg. No.TN 22 BR 2886 driven by its driver in a rash and negligent manner dashed against the claimant's motorcycle and due to the accident, the claimant sustained grievous injuries all over the body. Alleging that the accident had occurred due to the rash and negligent driving of the driver of the first respondent, the claimant has filed the claim petition claiming compensation of Rs.15,00,000/-.



C.M.A.No.2912 of 2021

WEB COPY

4. Resisting the claim petition and also denying the manner of accident, age, avocation and income of the claimant, the insurance company has filed a counter affidavit. It is stated in the counter affidavit that the accident had occurred only due to the rash and negligent driving of the claimant.

5. To substantiate the claim, the claimant examined himself as P.W.1 and marked Exs.P1 to P10. On behalf of the insurance company, no oral or documentary evidence was adduced.

6. Upon consideration of the oral and documentary evidence, the Tribunal held that the accident had occurred due to the rash and negligent driving of the driver of the first respondent. Since the first respondent remained exparte, the Tribunal directed the second respondent, being the insurer of the first respondent, to pay the compensation.

7. Considering the age of the claimant and the nature of injuries sustained by him, the Tribunal determined the total compensation payable



C.M.A.No.2912 of 2021

at Rs.90,700/- together with interest at 7.5% per annum under various heads in the following manner:

<i>Head</i>	<i>Compensation Awarded by the Tribunal</i>
Disability	Rs.45,000. 00
Pain and suffering	Rs.10,000.00
Extra nourishment	Rs.5,000.00
Transport to Hospital	Rs.5,000.00
Damages to clothes	Rs.500.00
Attender Charges	Rs.200.00
Medical Expenses	Rs.10,000.00
Furture Medical Expenses	Rs.5,000.00
Loss of education	Rs.5,000.00
Loss of amenities	Rs.5,000.00
Total	Rs.90,700.00

8. Heard Mr.V.Velu, learned counsel for the appellant and Mr.B.Siva Kolappan, learned counsel for the second respondent insurance company.

9. Learned counsel for the appellant submitted that though the Tribunal assessed the disability at 15% and awarded Rs.45,000/- under the head disability, the amounts awarded by the Tribunal under the other heads are very meagre. Hence the same requires interference of this



10. Learned counsel for the second respondent insurance company submitted that admittedly, no doctor assessed the disability of the injured claimant and the Tribunal on its own fixed the disability at 15%, which is contrary to law laid down by the Hon'ble Apex Court.

11. Considering the nature of injuries sustained by the claimant in his right leg, the Tribunal fixed 15% disability and awarded Rs.45,000/- towards disability. Further, the claimant not only failed to avail the opportunity granted by the Tribunal to re-open the evidence to prove and assess his disability but also the four months' time granted by the Tribunal to settle the matter, on his request. The accident is of the year 2012 and the claimant, who has not taken any steps to present himself before the Medical Board to assess the disability or to settle the matter till the matter was disposed of by the Tribunal in the year 2019, now cannot assail the award of the Tribunal and seek enhancement.

12. In view of the above, this Court is of the view that the appellant has not made out any ground to interfere with the award passed by the Tribunal. Accordingly, the Civil Miscellaneous Appeal is dismissed,



C.M.A.No.2912 of 2021

WEB COPY

confirming the award passed by the tribunal in MCOP.No.988 of 2013 dated 10.06.2019 and the second respondent / Insurance company is directed to deposit the compensation of **Rs.90,700/-** awarded by the tribunal to the credit of M.C.O.P.No.988 of 2013 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less the amount, if any, already deposited, within a period of six weeks (6) from the date of receipt of a copy of this judgment, if not already deposited. On such deposit being made, the Tribunal is directed to transfer the said amount to the appellant directly to his bank account through RTGS within a period of two (2) weeks thereafter. There shall be no order as to costs in this appeal.

11.12.2024

Index : Yes / No
Speaking order / Non-speaking order
Netrual Citation Case : Yes / No
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To

1. Motor Accidents Claims Tribunal, III Court of Small Causes, Chennai.
2. The Section Officer, V.R.Section, High Court, Madras.



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C.M.A.No.2912 of 2021

M.DHANDAPANI, J.

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C.M.A.No.2912 of 2021

C.M.A.No.2912 of 2021

11.12.2024