



WEB COPY



C.M.A.No.2026 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.2026 of 2024

R.Rakshini (Minor)
D/o.Rajesh

(Minor appellant represented by her
mother and natural guardian R.Visalachi)

... Appellant

Vs.

1.D.Prasuna

2.The New India Assurance Company Limited,
TP Claim Hub, Bombay Mutual Buildings,
6th Floor, N.S.C.Bose Road,
Chennai-600 001.

... Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 06.12.2023 made in M.C.O.P.No.3813 of 2016 on the file of the Motor Accident Claims Tribunal/Special Sub Court No.I, Chennai.



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For Appellant : Ms.Ramya V.Rao
For Respondents : R1-No representation
Mr.R.Rathna Thara for R2

J U D G M E N T

The appellant / claimant, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal/Special Sub Court No.I, Chennai, in M.C.O.P.No.3813 of 2016, dated 06.12.2023, has filed this appeal.

2. On 27.12.2015 at about 16.15 hrs, when the minor claimant, who was a pillion rider of motorcycle, was proceeding towards Tindivanam to Chennai direction, a Lorry belonging to the first respondent was standing in the down side bridge at Chengalpattu Iyyappan Temple without any indication and caution and the motorcycle hit on the back side of the lorry. As a result, the minor claimant sustained grievous injuries all over the body. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for compensation.



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3. Before the Tribunal, on the side of the claimant, the claimant's mother was examined as P.W.1 and Exs.P1 to P11 were marked. On the side of the respondent No.2, one witnesses was examined as R.W.1 and Exs.R1 to Ex.R3 were marked. The Disability Certificate issued by the Medical Board was marked as Ex.C1. The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the lorry and since the five persons traveled in the motorcycle, the Tribunal fixed 10% contributory negligence on the part of the claimant and fixed 90% negligence on the part of the driver of the first respondent. Having reached such a finding, the Tribunal proceeded to fix the total compensation at Rs.5,38,000/- under various heads. The above compensation was directed to be paid by the second respondent along with interest at 7.5% p.a.

4. The claimant, not being satisfied with the quantum of compensation awarded by the Tribunal, has filed this appeal seeking compensation.



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5. Pending the appeal, the parties have arrived at a settlement and a Joint Memo For Recording Settlement dated 21.12.2024 signed by both parties and their respective counsel, has been filed. The terms of settlement are extracted hereunder:

- " 1. The above appeal has been filed by the appellant/claimant seeking enhancement of compensation. The appellant had filed the above MCOP claiming compensation for the injuries sustained by him in an accident which took place on 27.12.2015 involving 1st respondent's vehicle insured with the 2nd respondent.
2. The tribunal passed an award dated 06.12.2023 for a sum of Rs.5,38,000/- with interest at 7.5% and cost. The Insurance Company has deposited the amount awarded by the Tribunal with interest and cost.
3. In the appeal, after Negotiation between both parties, the 2nd respondent Insurance Company is ready to settle the above appeal by accepting to enhance the compensation by Rs.1,75,000/- inclusive of interest as full quit and above the Tribunal award amount.
4. The appellant/Petitioner has already withdrawn the amount deposited by the Insurance Company. Now he is ready and willing to accept Rs.1,75,000/- in full quit over and above the Tribunal award amount.
5. It is prayed that this Hon'ble High Court may be pleased to record this Memo of Compromise and pass an award for a sum of Rs.1,75,000/- in favour of the Appellant/petitioner, R.Rakshini, payable by the Respondent to the credit of the above M.C.O.P.No.3813 of 2016 on the file of the Motor



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Accidents Claims Tribunal/In the Court of Special Sub Judge No.1, Chennai, within a period of four weeks, on such deposit, the appellant/claimant is permitted to withdraw the said amount without filing any formal petition, and thus render justice.

The Civil Miscellaneous Appeal is disposed of in terms of Joint Memo for Recording Settlement dated 21.12.2024 and the same shall form part of the judgment. No costs.

21.12.2024

(4/5)

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

To

1.The Motor Accident Claims Tribunal,
Special Sub Court No.I, Chennai.

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



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M.DHANDAPANI, J.

ssb

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