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Civil Miscellaneous Appeal No.1493 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1493 of 2024
and
C.M.P.No.13124 of 2024

Cholamandalam MS General Insurance Co. Ltd.,
New No.2, Old No.234,
Dare House, 2nd Floor,
N.S.C. Bose Road, Parrys,
Chennai - 600 001.
Salem Branch Office at
No.103/1, Peramanur Main Road,
Opp. to Rajali Agency,
Rainbow TV Centre,
Salem - 636 007.

... Appellant

Vs.

1.Murugesan
S/o.Thangavel

2.Ravichandran
S/o.Rajasekar

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 13.02.2024 made in M.C.O.P.No.763 of 2023 on the file of Motor Accident Claims Tribunal, Special Sub-Court I, Salem.

For Appellant : Mr.B.Siva Kollappan



JUDGMENT

WEB COPY The appellant insurance company, aggrieved by the award passed by the Motor Accident Claims Tribunal, Special Sub-Court I, Salem, in M.C.O.P.No.763 of 2023, dated 13.02.2024, has filed this appeal.

2. The case of the claimant is that on 12.09.2021, he was travelling in a Omni Car at Kovai - Salem National Highways bypass road and at about 01.30 a.m., the driver of the Omni Car drove the same in a rash and negligent manner and hit the road divider and caused the accident. The claimant sustained TP fracture in the right great toe and left shoulder contusion, left knee contusion and other minor injuries. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking compensation.

3. 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 taken place only due to the rash and negligent driving on the part of the driver of the Omni Car. Having reached such a finding, the Tribunal proceeded to fix the total



compensation at Rs.97,226/- under various heads as follows:

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<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Medical expenses	19,226/-
2.	Pain and sufferings	25,000/-
3.	Loss of income	12,000/-
4.	Transport expenses	10,000/-
5.	Nutrition expenses	10,000/-
6.	Attender charges	10,000/-
7.	Loss of amenities	10,000/-
8.	Damage to clothes	1,000/-
	Total	97,226/-

The above compensation was directed to be paid along with interest at 7.5% p.a.

4. The appellant insurance company has filed the present appeal mainly on the ground that the claim petition itself is not maintainable since it was filed beyond the period of limitation prescribed under The Motor Vehicles (Amendment) Act, 2019, which came into force on 01.04.2022.

5. Learned counsel for appellant submitted that the accident in this case had taken place on 12.09.2021 whereas the claim petition came to be filed on 24.06.2023. Therefore, the claim petition is clearly barred by



limitation as provided under Section 166(3) of the The Motor Vehicles (Amendment) Act, 2019. Learned counsel further submitted that even for an accident that took place prior to the amendment, the date of amendment i.e. 01.04.2022 must be taken into consideration for reckoning the period of six months. Learned counsel submitted that the judgment of this Court in ***Malaravan v. Praveen Travels Private Limited [C.R.P.No.2558 of 2023, dated 18.08.2023]***, requires reconsideration of this Court since vital rules have not been considered by this Court. In the considered opinion of this Court, as on today, the present case is governed by the judgment of this Court in ***Malaravan's*** case referred supra.

6. Considering the quantum of compensation fixed by the Tribunal to the tune of Rs.97,226/-, this Court does not want to undertake the exercise of reconsidering the earlier judgment of this Court. Hence, in an appropriate case, this issue can be raised by learned counsel for appellant and the issue will be kept open.

7. The second respondent insurance company is directed to deposit the compensation awarded by the Tribunal, less the amount already



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deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

In the result, the Civil Miscellaneous Appeal is dismissed. No costs.
Consequently, connected miscellaneous petition is closed.

05.07.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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To

The Motor Accident Claims Tribunal,
Special Sub-Court I,
Salem.



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N.ANAND VENKATESH, J.

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