



CMA.No.182 & 384 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 26.02.2024	Pronounced on 29.04.2024
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CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.Nos.182 & 384 of 2021

And

C.M.P.No.2558 of 2021

C.M.A.No.182 of 2021

A.Kannan
S/o.Arumugam
No.165, Yadhavar Street
Thirumani Village
Kancheepuram District 603 111

... Appellant

Vs.

1.M.Chakravarthy
S/o.Mani
No.42, Rajeshwari Nagar
Lakshmipuram
Poonamallee
Chennai 600 056
2.National Insurance Company Limited
Motor third party claims
Regina Mansion, No.46, 3rd Floor
Moore Street
Chennai 600 001
3.P.Balakrishnan
S/o.Pandurangan



CMA.No.182 & 384 of 2021

No.108/5, Ma.Po.C.Street
Sathandhapuram
Srinviassa Nagar
Perungalathur
Chennai 600 063

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 19.12.2019 made in MCOP.No.3893 of 2017 on the file of the Motor Accident Claims Tribunal (Special Sub Court No.2, Motor Accident Claims Petitions), Small Causes Court, Chennai

For Appellant : Ms.M.Malar

For Respondents : Ms.R.Sreevidhya (for R2)

R1 & R3 - Exparte

C.M.A.No.384 of 2021

The National Insurance Company Limited
Motor Third Party Cell
Regina Mansion, 3rd Floor
No.46, Moore Street
Chennai 600 001

Vs.

1.A.Kannan
S/o.Arumugam
No.165, Yadhavar Street
Thirumani Village
Kanchipuram District

2.M.Chakravarthy
S/o.Mani
No.42, Rajeshwari Nagar
Lakshmipuram
Poonamallee
Chennai 600 056

3.P.Balakrishnan
S/o.Pandurangan



CMA.No.182 & 384 of 2021

No.108/5, Ma.Po.C.Street
Sathandhapuram
Srinviassa Nagar
Perungalathur
Chennai 600 063

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 19.12.2019 made in MCOP.No.3893 of 2017 on the file of the Motor Accident Claims Tribunal (Special Subordinate Judge II, Court of Small Causes, Chennai

For Appellant : Ms.R.Sreevidhya
For Respondents : Ms.M.Malar (for R1)

COMMON JUDGMENT

These Appeals have been filed against Judgment and Decree dated 19.12.2019 made in MCOP.No.3893 of 2017 on the file of the Motor Accident Claims Tribunal (Special Subordinate Judge II, Court of Small Causes, Chennai

2.The Insurance Company is the Appellant in CMA.No.384 of 2021 and the claim Petitioner is the Appellant in CMA.No.182 of 2021. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

3.The factum of the accident and manner of the accident are not under challenge in this Appeal. The Insurance Company and the claim Petitioner challenged the award on the point of quantum.



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4. During trial, on the side of the claim Petitioner, PW1 was examined, Ex.P.1 to Ex.P.9 were marked and on the side of the Respondents, none was examined and no document was marked. Ex.C.1 was marked as court document.

5. Heard the learned counsel for the claim Petitioner, learned counsel for the Insurance Company.

6. The injured claim Petitioner filed MCOP.No.3893 of 2017, claiming compensation for the injuries sustained by him in a road transport accident occurred on 10.05.2017. Based upon the oral and documentary evidences adduced before the trial Court, the trial Court has come to the conclusion that the accident has taken place due to the rash and negligent driving of the driver of the offending vehicle which is insured with the Insurance company and granted a sum of Rs.11,96,485/- as compensation. Hence the Appeals.

7. As per the valuation in the grounds of Appeal, the admitted liability of the Insurance Company is only Rs.6,93,500/-, with regard to the balance of amount only the Appeal has been filed by the Insurance Company.



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8.As per Ex.C1, the claim Petitioner's disability is fixed at 30%. In Ex.C1,

it is stated as follows:

"His disability is loss of ankle movement right/shortening due to road traffic accident and his disability is 30%."

Based upon Ex.P2 and Ex.P.3/discharge summaries, the trial Court has fixed the functional disability at 20%. From Ex.P.2 and Ex.P3, this Court finds that the claim Petitioner was admitted in the hospital and was taken treatment as inpatient between 10.05.2017 & 12.05.2017 and again hospitalised between 12.05.2017 & 25.06.2017 and in the accident he has suffered femur bone fracture and also right ankle fracture and underwent surgeries. Ex.P.9 is the photograph showing the present position of the claim Petitioner. The Medical Board issued disability certificate mentioning the disability as 30%. As per the settled proposition of law, the Tribunal fixed the functional disability at 20%. The same is hereby confirmed.

9.As per Ex.P8/Aadhar card of the claim Petitioner, year of birth of the claim Petitioner is 1983 and as per Ex.P.1/FIR, the date of accident is 10.05.2017 and therefore, at the time of the accident the claim Petitioner is aged about 34 years old. By following this Court's decision in the case of Andal & Others Vs. Avinan Kanan and others reported 2019 (1) TNMAC 54 (DB), the Tribunal has rightly fixed the monthly income at Rs.13,500/-. The same is hereby confirmed. The Tribunal has added 40% towards future prospects and adopted right multiplier of



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16 and arrived at a sum of Rs.7,25,760/-, towards disability. The same is hereby confirmed.

10.The Tribunal has awarded a sum of Rs.20,000/- each towards pain and sufferings, transportation, extra nourishment, loss of amenities. The same are hereby confirmed. The Tribunal has awarded a sum of Rs.10,000/- each towards loss of marital life and for mental agony. The same are also hereby confirmed. The Tribunal has awarded a sum of Rs.1,000/- towards damages to clothes. The same is also hereby confirmed. Based on Ex.P5/Medical bills, the Tribunal has awarded a sum of Rs.3,19,725/-. The same is also hereby confirmed. Since the claim Petitioner has to undergo another surgery, a sum of Rs.50,000/- was awarded by the Tribunal towards future medical expenses. The same is also hereby confirmed. In total, the tribunal has awarded a sum of Rs.11,96,000/- to the claim Petitioner as compensation. The same is just and proper, which does not warrant any interference of this Court.

11.In fine, both the Appeals stand dismissed. No Costs. Consequently, connected Miscellaneous Petition is closed.

29.04.2024

Index : Yes/No

Neutral citation : Yes/No

Speaking Order/Non-Speaking Order



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To
The Special Sub Judge II
Motor Accident Claims Tribunal
Court of Small Causes
Chennai.



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CMA.No.182 & 384 of 2021
RMT.TEEKAA RAMAN.J,

sai

Pre-delivery Judgment made in

C.M.A.Nos.182 & 384 of 2021

Dated: 29.04.2024