



CMA No.2970 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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CORAM :

THE HONOURABLE **MR.JUSTICE RMT.TEEKAA RAMAN**

C.M.A.No.2970 of 2021
and C.M.P. No.16934 of 2021

Judgment reserved on 15.02.2024	Judgment pronounced on 22.02.2024
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DM, The New India Assurance Company Ltd.,
DO 30, J.N. Street,
Pondicherry – 605 001.

..

Appellant

Vs.

1.P.Prabhu
2.S.Muralichandar @ Murali
3.B.Srinivasan
(3rd respondent set exparte in the lower
court. Hence notice to R3 dispensed with) ..

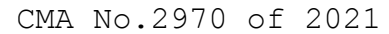
Respondent

Prayer : This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 08.01.2021 passed in MCOP No.2763 of 2016 on the file of the Motor Accidents Claims Tribunal, Cuddalore (Special Sub Judge), Cuddalore.

For Appellant : Mrs.G.Sukumari

For R-1 : Mrs.Ramya V.Rao

For R-2 : No appearance



The appellant/Insurance company has filed the present appeal challenging the award passed by the Tribunal dated 08.01.2021 in M.C.O.P.No.2763 of 2016 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Cuddalore, on the ground of quantum.

2. The factum of accident, manner of accident, vehicle being insured with the appellant/Insurance company and the rash and negligent driving by the second respondent are not in dispute. Accordingly, the finding rendered by the Trial Court with regard to negligence are hereby confirmed.

3. On the point of quantum of compensation, heard the learned counsel for the appellant/insurance company as well as learned counsel appearing for the first respondent.

4. The learned counsel appearing for the appellant/insurance company would contend that the application of multiplier method for the injuries



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sustained by the first respondent in the accident is unwarranted and compensation awarded by the Tribunal under other heads are also on the higher side.

5. Though notice has been served on the second respondent and his name has been printed in the cause list, there is no representation for him either in person or through counsel.

6. The learned counsel appearing for the first respondent / claimant placed reliance upon the order passed by this Court on 25.10.2021 in CMA No.3031 of 2021 wherein the very same first respondent/claim petitioner has filed the appeal challenging the award of the Tribunal seeking enhancement of compensation in the very same MCOP which was dismissed on the ground that the compensation awarded by the Tribunal is just and fair. The operative portion of the above said order is extracted hereunder -

4. Since the accident happened in the year 2015, and the appellant/claimant was a Mason, aged 32 years, this Court of is of the considered view that the assessment of the notional monthly income of the appellant/claimant at Rs.12,000/- (Rupees Twelve Thousand



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only), is a correct assessment made by the Tribunal. Therefore, the same is confirmed by this Court.

5. The appellant/claimant has sustained six fractures as a result of the accident caused by the insured car. As seen from the evidence available on record, the nature of injuries sustained by the appellant/claimant has not been disputed by the third respondent Insurance Company. The appellant/claimant was hospitalized for 32 days. He has also filed discharge summaries issued by the hospitals which have been marked as Exs.P.4 and P.7 before the Tribunal. The period of hospitalization of the appellant/claimant has not been disputed by the third respondent Insurance Company, as seen from the evidence available on record.

6. The Medical Board has assessed the whole body disability of the appellant/claimant at 30% and the disability certificate issued by the medical board has been marked as Ex.C1 before the Tribunal. The Tribunal has accepted the same and assessed the disability of the appellant/claimant at 30%. This Court does not find any scope for interference with regard to the assessment of disability of the appellant/claimant as the said assessment has been done only based on the Medical Board's report. Accordingly, the same is confirmed by this Court.

7. The appellant/claimant was aged 32 years at the time of the accident and the Tribunal has correctly adopted the multiplier of 16 while assessing the loss of earning capacity of the appellant/claimant and therefore the same is confirmed by this Court.



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8. The Tribunal has awarded a compensation of Rs.6,91,200/- (Rupees Six Lakhs Ninety One Thousand Two Hundred only) to the appellant/claimant towards loss of earning capacity which is a correct assessment and therefore the same is confirmed by this Court.

7. In view of the above, I find that since this Court, in the above said order wherein the compensation has been questioned by the claim petitioner, has rendered a specific finding that the award passed by the Tribunal is just and fair, there is nothing to agitate in this case. Accordingly, following the above said judgment, this Court has no hesitation to hold that the compensation awarded by the Tribunal is just and fair and does not warrant any interference by this Court.

8. In fine,

(i) this Civil Miscellaneous Appeal is dismissed confirming the compensation awarded by the Tribunal dated 08.01.2021 in MCOP No.2763 of 2016.

(ii) the appellant/New India Assurance Company Limited is directed to deposit the award amount before the Tribunal, within a period of eight weeks



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from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) on such deposit being made, the first respondent/claim petitioner is permitted to withdraw the award amount, less the amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) No costs. Consequently, connected Miscellaneous Petition is closed.

22.02.2024

rg

Index : Yes/No

Neutral Citation: Yes/No

Speaking Order: Yes/No

To

1. The Special Subordinate Judge,
Motor Accident Claims Tribunal,
Cuddalore.
2. The Section Officer,
V.R.Section, High Court,
Madras.



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RMT.TEEKAA RAMAN.J,

rgr

Judgment made in
C.M.A.No.2970 of 2021

22.02.2024