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C.M.A.Nos.3195 and 3196 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**C.M.A.Nos.3195 and 3196 of 2024
and C.M.P.No.26689 of 2024**

Prayer in C.M.A.No.3195 of 2024

A.Pransis

... Appellant

Vs.

The Director of Treasuries and Account,
No.1, Jennis Road, Saidapet,
Chennai-600 015.

... Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award dated 06.01.2024 passed in M.C.O.P.No.600 of 2020 on the file of the Motor Accident Claims Tribunal, Special District Court No.I, Cuddalore.

For Appellant : Ms.Ramya V.Rao

For Respondent : Mr.P.Gurunathan
Additional Government Pleader



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Prayer in C.M.A.No.3196 of 2024

The Director of Treasuries and Account,
Chennai.

(Now Commissioner of Treasuries and Accounts,
now at 3rd Floor, Perasiriyar Anbazhagan Maligai,
No.571, Annasalai, Veterinary Hospital Campus,
Nandanam, Chennai-35).

... Appellant

*(*cause title accepted vide Court order dated 19.10.2024 made in
C.M.P.No.22408 of 2024 in C.M.A.SR.No.130634 of 2024*)*

Vs.

A.Pransis

... Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award dated 06.01.2024 passed in M.C.O.P.No.600 of 2020 on the file of the Motor Accident Claims Tribunal, Special District Court No.I, Cuddalore.

For Appellant : Mr.P.Gurunathan
Additional Government Pleader

For Respondent : Ms.Ramya V.Rao



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COMMON JUDGMENT

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These Civil Miscellaneous Appeals have been filed challenging the award dated 06.01.2024 passed in M.C.O.P.No.600 of 2020 by the Motor Accidents Claims Tribunal cum Special District Court No.1, Cuddalore.

2. For the sake of convenience and clarity, the parties are referred to as per their ranking before the Tribunal.

3. C.M.A.No.3195 of 2024 has been filed by the claimant, whereas, C.M.A.No.3196 of 2024 has been filed by the respondent/owner of the offending vehicle.

4. The facts which are required for disposal of these appeals are that on 01.04.2020 at about 09.00 a.m., when the claimant was driving his two wheeler bearing Reg.No.TN 31 BD 4500 at Panruti- Kumbakonam main road, the vehicle bearing Reg.No.TN 09 G 0234 belonging to the



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respondent dashed against the claimant's vehicle, as a result, the claimant sustained serious injuries. The claimant was aged about 65 years on the date of accident and was earning a sum of Rs.20,000/- per month. Claiming compensation of Rs.10,00,000/- for the injuries sustained by him, the claimant filed M.C.O.P.No.600 of 2020.

5. The respondent filed a counter affidavit stating that the injured claimant was responsible for the accident and he has suddenly crossed the road and that he did not have the valid driving license at the time of accident. It was also contended that the claimant did not sufficiently prove his age and avocation and no substantiating document was filed with respect to permanent disability sustained by him and therefore, claiming that the compensation was excessive, the respondent sought for dismissal of the claim petition.

6. The Tribunal after considering the submissions made on both sides, came to a conclusion that the accident occurred due to rash and



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negligent driving of the driver of the car, therefore, the respondent was liable to pay the compensation. Having rendered such a finding, the Tribunal awarded a compensation of Rs.3,10,000/- with interest at 7.5% per annum. Claiming enhancement of compensation, the claimant is before this Court in C.M.A.No.3195 of 2024 and challenging the liability as well as the quantum of compensation, the respondent is before this Court in C.M.A.No.3196 of 2024.

7. Heard the learned counsel appearing for the claimant and the learned Additional Government Pleader appearing for the respondent.

8. Admittedly, there is no dispute with respect to the manner of the accident. Even the respondent did not deny with respect to the involvement of the vehicle belonging to them in the accident. The respondent had only denied the negligence on the part of their vehicle and contended that the contributory negligence was on the part of the claimant as he had suddenly crossed the road and the avocation of the claimant was not substantially



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proved by filing proper documents. No substantiating document was filed with respect to the permanent disability suffered by the claimant.

9. This Court has carefully considered the award passed by the Tribunal. With respect to disability sustained, the Tribunal itself recommended for medical examination of the claimant before the Medical Board and based on the Wound Certificate issued by the Medical Officer, Government Hospital, Banruti, the Tribunal fixed the disability at 18% and arrived at a sum of Rs.5,000/- per percentage of disability and the Tribunal fixed a compensation of Rs.90,000/- towards disability. On perusal of the Wound Certificate, this Court is able to find that the claimant sustained grievous injuries. It is also certified by the Medical Officer that the claimant had suffered grievous injuries as a result of the accident. Taking into consideration the nature of the injuries sustained by the claimant, this Court is inclined to fix a compensation of Rs.9,000/- per percentage of disability. Accordingly, a sum of Rs.1,62,000/- ($\text{Rs.9,000/-} \times 18\%$) is fixed towards disability. With respect to pain and suffering, this Court is inclined to



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enhance the same from Rs.60,000/- to Rs.75,000/- and a sum of Rs.20,000/- awarded towards nutrition charges is enhanced to Rs.30,000/- and the compensation fixed by the Tribunal with respect to the other heads, namely, transportation charges, attender charges and loss of income is just and reasonable. This Court finds no ground to award any amount towards loss of amenities as fixed by the Tribunal and hence, the same is set aside.

Accordingly, the enhanced compensation shall be as follows:-

<i>S.No</i>	<i>Head of Compensation</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>
1.	Disability	Rs.90,000/-	Rs.1,62,000/-
2.	Pain and Sufferings	Rs.60,000/-	Rs.75,000/-
3.	Nutrition Charges	Rs.20,000/-	Rs.30,000/-
4.	Transportation Charges	Rs.10,000/-	Rs.10,000/-
5.	Attender Charges	Rs.30,000/-	Rs.30,000/-
6.	Loss of amenities	Rs.40,000/-	-
7.	Loss of income	Rs.60,000/-	Rs.60,000/-
	Total	Rs.3,10,000/-	Rs.3,67,000/-



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10. With respect to the ground of contributory negligence raised by the respondent, it is a settled proposition that the application under the Motor Vehicles Act, 1988, has to be decided on the basis of the evidence let before it and not on the basis of the evidence which should have been or could have been led in a criminal trial. Accordingly, the Tribunal was right in disbelieving the evidence of the Investigating Officer and based on the FIR and the evidence adduced by the claimant before the Tribunal, it can be concluded that the accident was occurred due to rash and negligent driving of the offending vehicle owned by the respondent. Accordingly, the grounds raised by the respondent are hereby rejected.

11. The compensation awarded by the tribunal at Rs.3,10,000/- is enhanced to Rs.3,67,000/-. The above compensation shall be paid together with interest at 7.5% p.a. The respondent is directed to deposit the enhanced compensation of Rs.3,67,000/-, less the amount already 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



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judgment. On such deposit being made, the Tribunal is directed to transfer the compensation amount to the share of the claimant directly to the bank account through RTGS within a period of two weeks thereafter. It is made clear that the claimant is not entitled for the interest for the default period.

12. In the result, C.M.A.No.3195 of 2024 is partly allowed and C.M.A.No.3196 of 2024 is dismissed. There shall be no order as to costs. Connected miscellaneous petition is closed.

10.12.2024

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



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To

1. The Motor Accident Claims Tribunal,
Special District Court No.I, Cuddalore.
2. The Section Officer,
V.R. Section,
High Court, Chennai.



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M.DHANDAPANI, J.

ssb

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