



C.M.A.No.2651 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**C.M.A.No.2651 of 2019
And
C.M.P.No.13058 of 2019**

M/s.National Insurance Company Limited
City Branch-3,
Cauvery Complex,
2nd Floor, 1670,
Trichy Road, Ramanathapuram,
Coimbatore.

... Appellant

Vs.

1.V.Kalichamy
2.P.Chinnasamy
3.L.Balasundaram

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 20.10.2010 made in M.C.O.P.No.792 of 2007, on the file of the Motor Accidents Claims Tribunal (II Additional Sub Court), Coimbatore.

For Appellant : Mr.D.Bhaskaran
For Respondents : No Appearance

J U D G M E N T

The third respondent before the Motor Accidents Claims



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Tribunal is the appellant herein. This appeal has been filed against the judgment and decree dated 20.10.2010 passed by the Motor Accidents Claims Tribunal (II Additional Sub Court), Coimbatore, in M.C.O.P. No.792 of 2007.

2.The learned counsel appearing for the appellant submitted that the first respondent claimant filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.10 Lakhs alleging that on 27.07.2005 at about 09.30 p.m., when the first respondent was riding the motorcycle bearing Registration No.KA-19-Q-4093 in Mettupalayam Road from South to North near Narasimmanaickenpalayam, the rider of the Eicher Van bearing Registration No.TN-38-W-2570, which came in the opposite direction drove the vehicle in a rash and negligent manner and dashed against the motorcycle driven by the first respondent, due to which, the first respondent sustained injuries. After adjudication, the Tribunal awarded a sum of Rs.3,91,607/- as compensation to the claimant along with interest at 7.5% p.a. from the date of filing of the petition till the date of deposit and directed the appellant to deposit the amount.



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3.The learned counsel appearing for the appellant further submitted that the first respondent already received a sum of Rs.1 Lakh from the appellant through medical claim and the same was established through Ex.P8, however, the Tribunal without considering the same, awarded a sum of Rs.2,87,607/- including the amount of Rs.1 Lakh already received by the first respondent for medical expenses, which amounts to double claim and the same is impermissible.

4.Heard the learned counsel appearing for the appellant. The learned counsel appearing for the appellant submitted that the second respondent is not a necessary party and hence, notice to the second respondent may be dispensed with and has also made an endorsement to that effect in the petition. Though the names of the respondents 1 and 3 have been printed in the cause list, there is no representation for the respondents 1 and 3. Considering the pendency of the civil miscellaneous appeal, this Court is inclined to proceed with the case and decide the same based on the materials available on record.

5.The accident and the manner in which the accident happened are not disputed. The only dispute is whether the claimant is entitled



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to receive the amount already received by him through mediclaim.

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6.This Court perused Ex.P8 – Certificate issued by the New India Assurance Company and it reveal that the claimant has received a sum of Rs.1 Lakh through medical claim. Though Ex.P8 has been marked before the Tribunal, the Tribunal has relied upon the decision reported in 2000 ACJ 701 [Madhya Pradesh State Road Transport Corporation and another Vs. Priyank] and awarded a sum of Rs.2,87,607/- including the amount of Rs.1 Lakh already received by the first respondent for medical expenses, however, the said decision is only percusive.

7.Anyway, once an amount is claimed through medical claim, the very same amount cannot be claimed through Motor Accidents Claims Tribunal, which amounts to double claim and the same is impermissible.

8.In the present case, the first respondent has already received a sum of Rs.1 Lakh from the appellant through medical claim. Hence, the amount awarded under the head Medical expenses is reduced to Rs.1,87,607/- from Rs.2,87,607/-. There is no dispute with regard to



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the amount awarded under the other heads and the amount awarded under the other heads in the opinion of this Court are just and reasonable and the same are confirmed.

9. Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Disability	Rs. 50,000/-	Rs. 50,000/-
2.	Extra nourishment	Rs. 5,000/-	Rs. 5,000/-
3.	Transport expenses	Rs. 10,000/-	Rs. 10,000/-
4.	Attender charges	Rs. 5,000/-	Rs. 5,000/-
5.	Pain and sufferings	Rs. 25,000/-	Rs. 25,000/-
6.	Medical expenses	Rs.2,87,607/-	Rs.1,87,607/-
7.	Loss of income	Rs. 9,000/-	Rs. 9,000/-
	Total	Rs.3,91,607/-	Rs.2,91,607/-

10. The first respondent claimant is entitled to total compensation of Rs.2,91,607/- along with interest at the rate of 7.5% p.a. from the date of filing of the petition till the date of deposit.

11. The civil miscellaneous appeal is allowed on the above terms. The judgment and decree dated 20.10.2010 made in M.C.O.P.No.792 of 2007, on the file of the Motor Accidents Claims Tribunal (II



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Additional Sub Court), Coimbatore, is modified to the above extent.

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12.The appellant Insurance Company is directed to deposit the modified award amount before the Tribunal less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this judgment. The appellant is permitted to withdraw a sum of Rs.1 Lakh along with accrued interest, if the amount awarded by the Tribunal has already been deposited by them or excess amount, if any, already deposited by them.

13.On such deposit, the first respondent/ claimant is permitted to withdraw the modified award amount with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal.

14.The civil miscellaneous appeal is allowed on the above terms. No costs. Consequently, the connected miscellaneous petition is closed.

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



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To

1.The Motor Accidents Claims Tribunal,
(II Additional Sub Court), Coimbatore.

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M.DHANDAPANI,J.
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