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C.M.A.No.1572 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1572 of 2019

Mathammal

...Appellant

Vs.

1. M.K.Karuppusamy
2. National Insurance Co. Ltd.,
403, Mettur Road, Bhavani,
Erode District.
3. R.Ramesh
4. N.Ramalingam

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the order made in MCOP.No.242 of 2005 on the file of the Motor Accident Claims Tribunal cum Fast Track Court No.IV, Bhavani, Erode District dated 23.06.2008.

For Appellant : Mr.C.Kulanthaivel

For Respondents : Mr.D.Baskaran R2
No appearance, for R1
Notice not ready, for R3 & R4



C.M.A.No.1572 of 2019

ORDER

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2. Learned counsel for the 2nd respondent submitted that, this Court, vide order dated 05.11.2024 dismissed this appeal, by confirming the award of the tribunal dated 23.06.2008 made in MCOP.No.242 of 2005. However, in Para – 9 of the said order, instead of directing the 3rd and 4th respondents to pay the compensation as directed by the tribunal, it has been mentioned as Insurance company, which requires to be modified. Learned counsel appearing for the appellant also ratified the above submissions made by the learned counsel for the 2nd respondent.

3. This Court perused the order dated 05.11.2024, more particularly para-9 and finds that erroneously, in the 2nd line of the said para, instead of noting that the 3rd and 4th respondents are directed to deposit the compensation awarded by the tribunal, erroneously it has been mentioned as ‘insurance company’ and, therefore, the same requires to be corrected.



C.M.A.No.1572 of 2019

4. Accordingly, para-9 of the order dated 05.11.2024 shall stand replaced with the following paragraph :-

*“9. In the result, the civil miscellaneous appeal is dismissed and award passed by the Tribunal is confirmed **and as directed by the tribunal, the 3rd and 4th respondents are directed to deposit the compensation amount with interest at the rate of 7.5% per annum from the date of petition till the date of realization, after deducting the amount if any already deposited within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal shall deposit the same to the bank account of the appellant through RTGS within a period of two weeks thereafter. No costs.**”*

5. All the other observations made in the earlier order dated 05.11.2024 shall remain intact.

6. Registry is directed to carry out the aforesaid corrections and issue fresh order copies to the parties.

08.01.2025

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C.M.A.No.1572 of 2019

M.DHANDAPANI, J.

skt

To

- 1.The Motor Accident Claims Tribunal cum Fast Track Court No.IV,
Bhavani, Erode District.
- 2.The Section Officer,
V.R.Section, High Court, Madras.

C.M.A.No.1572 of 2019

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C.M.A.No.1572 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1572 of 2019

Mathammal

.. Appellant

Vs.

1. M.K.Karuppusamy

2. National Insurance Co. Ltd.,
403, Mettur Road, Bhavani,
Erode District.

3. R.Ramesh

4. N.Ramalingam

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the order made in MCOP. No.242 of 2005 on the file of the Motor Accident Claims Tribunal cum Fast Track Court No.IV, Bhavani, Erode District dated 23.06.2008.

For Appellant : Mr.C.Kulanthaivel
For Respondents : Mr.D.Baskaran R2
R1, R2 – No appearance
R3 & R4 – NRN

J U D G M E N T

This appellant/claimant has come forward with this appeal seeking



C.M.A.No.1572 of 2019

enhancement of compensation by challenging the decree and judgment in MCOP. No.242 of 2005 on the file of the Motor Accident Claims Tribunal cum Fast Track Court No.IV, Bhavani, Erode District dated 23.06.2008.

2.Brief fact which are necessary for disposal of this appeal is as follows:-

On 04.05.2005 at about 6.00 am, when the appellant was travelling as a pillion rider in a Bajaj M-80 bearing Reg. No.TN 36 F 4127 which was driven by the first respondent from Gobi to Mevani Road towards east to west near Karunkaradu Bathalavaikkal for selling dry fish, at the time, the Yamaha Crux Motor Cycle bearing Reg. No.TN 32 W 9925 which was driven by the third respondent in the opposite direction, hit against the appellant bike. Due to the said accident, the appellant sustained injuries all over the body and her right and left below the knees both got fractured and left shoulder and right hip bleeding injuries. Thereby, the appellant/claimant has filed a claim Petition before the Motor Accidents Claims Tribunal claiming compensation of Rs.3,00,000/- against the owner of the vehicle and its insurer.



C.M.A.No.1572 of 2019

WEB COPY

3. Before the Tribunal, during trial, in order to prove the case, on the side of the appellant, three witnesses were examined viz., PW1 to PW3 and marked 16 documents viz., Exs.P1 to P16, On the side of the respondent/Insurance company, two witnesses were examined and six documents were marked. The Tribunal, considering the pleadings, oral and documentary evidence, allowed the petition in part and awarded a sum of Rs.1,54,192/- Aggrieved by the said award, the appellant has filed this appeal before this Court for enhancement of the compensation.

4. The learned counsel for the appellant/claimant submitted that the order passed by the claims Tribunal is contrary to law. Without considering the nature of injuries sustained by the appellant, the Tribunal has awarded meager compensation towards disability and pain and sufferings. The Tribunal did not consider the gravity of injuries as well as impact and consequences of the injuries, passed the award, which is very low. Therefore, this Court may interfere with the same.



C.M.A.No.1572 of 2019

5. Per contra, learned counsel appearing for the respondent/insurance company submitted that the Tribunal has awarded the compensation towards disability is reasonable and after elaborate trial, the Tribunal has passed award which is perfectly in order and no need to interfere with. Hence, this Court may dismiss the appeal.

6. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

7. The factum of the accident is not disputed by the parties and so also the liability. Therefore, this Court is not entering into the said aspect. The only grievance of the claimant is with regard to the quantum of compensation awarded.

8. On perusal of the award, it is seen that the appellant, before the Tribunal, the appellant has not produced any proof with regard to her income. The Doctor has assessed 44% disability to the appellant. Hence, the Tribunal awarded a sum of Rs.35,000/-, which does not warrant any



C.M.A.No.1572 of 2019

interference. In respect of the head viz., Pain and Sufferings and extra nourishment and medical bills, the Tribunal awarded the compensation which is just and reasonable and the same needs no interference. The compensation awarded under other heads are reasonable.

9. In the result, the civil miscellaneous appeal is dismissed and award passed by the Tribunal is confirmed. The insurance company is directed to deposit the compensation amount with interest at the rate of 7.5% per annum from the date of petition till the date of realization, after deducting the amount if any already deposited within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal shall deposit the same to the bank account of the appellant through RTGS within a period of two weeks thereafter. No costs.

05.11.2024

Index : Yes

Speaking Order : Yes

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To

The Judge, Motor Accident Claims Tribunal cum Fast Track Court No.IV,
Bhavani, Erode District

9/10



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C.M.A.No.1572 of 2019

M.DHANDAPANI,J.

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C.M.A.No.1572 of 2019

05.11.2024