



WEB COPY



C.M.A.No.1154 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1154 of 2020

And

C.M.P.No.7270 of 2020

National Insurance Company Limited
Divisional Manager
DO-110, JN Street, Puducherry.

... Appellant

Vs.

1.Karunakaran
2.Muthuraj

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 09.06.2016 made in M.C.O.P.No.625 of 2014, on the file of the Motor Accidents Claims Tribunal (First Additional Sub Court), Cuddalore.

For Appellant : Mr.D.Bhaskaran
For Respondents : Mrs.Ramya V.Rao for R1
R2 – No Appearance

J U D G M E N T

The second respondent before the Motor Accidents Claims



C.M.A.No.1154 of 2020

Tribunal is the appellant herein. This appeal has been filed against the judgment and decree dated 09.06.2016 passed by the Motor Accidents Claims Tribunal (First Additional Sub Court), Cuddalore, in M.C.O.P.No.625 of 2014.

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.15 Lakhs alleging that on 26.01.2014 at about 21.30 hours, when the first respondent was riding his Hero Honda Splendor motorcycle, bearing Registration No.TN-31-AC-2269 at Mudapalli – Muthandikuppam Road, at Kattukoodalur brand road joint, the rider of the motorcycle bearing Registration No.TN-31-AJ-3739 owned by the second respondent 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.4,66,390/- as compensation to the claimant along with interest at 7.5% p.a. from the date of petition till the date of deposit with costs and directed the appellant to deposit the amount and to recover the same from the second respondent.



C.M.A.No.1154 of 2020

WEB COPY

3.The learned counsel appearing for the appellant further submitted that the motorcycle which dashed against the motorcycle driven by the claimant was driven by one Ramaraj, however, the same was not proved before the Tribunal and further submitted that mere registration of F.I.R., as against the vehicle insured with the appellant could not be put against the appellant and further submitted that the amount awarded as compensation is also on the higher side.

4.The learned counsel appearing for the first respondent/claimant submitted that the Tribunal after considering all the factual aspects, awarded compensation which is just and reasonable and the same warrants no interference.

5.Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the first respondent and perused the materials available on record.

6.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.1,84,800/- for disability, Rs.53,590/- for medical



C.M.A.No.1154 of 2020

bills, Rs.15,000/- for transportation, Rs.10,000/- for extra nourishment, Rs.15,000/- for attender charges, Rs.50,000/- for pain and sufferings, Rs.1,000/- for damage to clothes, Rs.42,000/- for loss of income during the treatment period, Rs.50,000/- for loss of comfort, Rs.45,000/- for future treatment and arrived at a total compensation of Rs.4,66,390/- with interest at the rate of 7.5%p.a. from the date of petition till the date of deposit.

7.In respect of the very same accident, the National Insurance Company Limited, Cuddalore had filed C.M.A.No.1663 of 2018 and the negligence aspect was decided by this Court vide judgment dated 11.11.2024 made in the said appeal. Further the Tribunal has directed the appellant to deposit the award amount and to recover the same from the second respondent. Hence, this Court is not inclined to interfere with the liability aspect.

8.Insofar as the quantum of compensation is concerned, Though the Doctor assessed the disability of the injured claimant as 60% disability, the Tribunal fixed the disability of the claimant as 20% functional disability and awarded compensation by adopting multiplier



C.M.A.No.1154 of 2020

method. The Tribunal ought to have followed the decision of the Hon'ble Apex Court reported in (2011) 1 SCC 343 [*Raj Kumar Vs. Ajay Kumar and Ors.*], however, without following the guidelines issued in the said decision, the Tribunal mechanically passed the award by applying multiplier method, which is not sustainable one.

9.The Doctor assessed the disability of the injured claimant as 60% disability. At the relevant point of time Rs.4,000/- per percentage of disability was awarded. Hence, the amount awarded for disability works out to Rs.2,40,000/- [60% X Rs.4,000/- = Rs.2,40,000/-].

10.The amount awarded under the heads loss of comfort and for future treatment, in the opinion of this Court are not necessary and the same are deleted. The amount awarded under the other heads, viz., medical bills, transportation, extra nourishment, attender charges, pain and sufferings, damage to clothes, loss of income during the treatment period, in the opinion of this Court are just and reasonable and the same are confirmed.



C.M.A.No.1154 of 2020

WEB COPY

11. 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.1,84,800/-	Rs.2,40,000/-
2.	Extra nourishment	Rs. 10,000/-	Rs. 10,000/-
3.	Transportation	Rs. 15,000/-	Rs. 15,000/-
4.	Loss of comfort	Rs. 50,000/-	---
5.	Pain and sufferings	Rs. 50,000/-	Rs. 50,000/-
6.	Medical bills	Rs. 53,590/-	Rs. 53,590/-
7.	Future treatment	Rs. 45,000/-	---
8.	Loss of income during treatment period	Rs. 42,000/-	Rs. 42,000/-
9.	Attender charges	Rs. 15,000/-	Rs. 15,000/-
10.	Damage to clothes	Rs. 1,000/-	Rs. 1,000/-
	Total	Rs.4,66,390/-	Rs.4,26,590/-

12. The first respondent claimant is entitled to total compensation of Rs.4,26,590/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit. The pay and recovery ordered by the Tribunal is confirmed.

13. The civil miscellaneous appeal is partly allowed. The judgment and decree dated 09.06.2016 passed by the Motor Accidents Claims Tribunal (First Additional Sub Court), Cuddalore, in



C.M.A.No.1154 of 2020

M.C.O.P.No.625 of 2014, is modified to the above extent.

WEB COPY

14.The appellant Insurance Corporation 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 the excess amount, if any, already deposited by them.

15.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.

16.The civil miscellaneous appeal is partly allowed. No costs. Consequently, the connected miscellaneous petition is closed.

11.11.2024

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

To
1.The Motor Accidents Claims Tribunal,
(First Additional Sub Court), Cuddalore.

7/8



WEB COPY



C.M.A.No.1154 of 2020

M.DHANDAPANI,J.
pri

C.M.A.No.1154 of 2020
And
C.M.P.No.7270 of 2020

11.11.2024