



C.M.A(MD)No.47 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.01.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.47 of 2022

Ravi

... Appellant

Vs.

1.The Managing Director,  
Tamil Nadu State Transport Corporation,  
New Junction,  
Kumbakonam, Thanjavur District.

2.P.Periyasamy

3.The Divisional Officer,  
Reliance General Insurance Limited,  
408, 3<sup>rd</sup> Floor,  
Perundurai Road, Erode.

... Respondents

**PRAYER:** Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the fair and decreetal order, dated 16.07.2015, passed in M.C.O.P.No.913 of 2011, on the file of the by the Motor Accident Claims Tribunal (Special Sub-Court, Thanjavur).

|               |                              |
|---------------|------------------------------|
| For Appellant | : Mr.P.Ganapathi Subramanian |
| For R1        | : Mr.P.M.Vishnuvarthanan     |
| For R2        | : No Appearance              |
| For R3        | : Mr.V.Sakthivel             |



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### **JUDGMENT**

The claimant has filed this Civil Miscellaneous Appeal. The claimant is the appellant herien.

2.The contention of the appellant is that while he was travelling along with her daughter met with an accident and both were seriously injured. The appellant was admitted in Government Hospital and was taking treatment for 21 days, subsequently, he was taking treatment as out-patient. The Tribunal has awarded compensation for only Rs.20,000/-. The Tribunal has relied on the deposition of the Doctor wherein the Doctor has admitted that he had certified that the claimant was injured but he did not certify whether it was grievous injury or not. Based on this sole deposition, the Tribunal has granted Rs.20,000/- as compensation. Aggrieved over the same, the present appeal is preferred by the claimant.

3. The Learned Counsel appearing for the appellant submitted that when the appellant has taken treatment for 21 days as in-patient in the Government Hospital, the Tribunal ought to have accepted the case of the claimant and granted the compensation claimed by the claimant.



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4. The Learned Counsel appearing for the 1<sup>st</sup> respondent submitted that since the Doctor has not certified the injury as grievous injury, the Tribunal has come to the correct conclusion. The respondents further submitted that there was a double claim in the present case and since the appellant's daughter was already granted compensation by the first respondent, the appellant is not entitled to compensation.

5. After hearing the arguments, this Court is of the considered opinion that once the injured was treated as in-patient in Government Hospital for 21 days, then it ought to be taken that the injury as “grievous”. Further solely by relying on the Doctor's deposition who had stated that he had not mentioned that the injury as grievous injury, the Tribunal has come to an erroneous conclusion. Therefore, the claimant is entitled to enhancement of compensation.

6. The next ground that was submitted by the 1<sup>st</sup> respondent is that there was double claim and the same was refuted by the appellant stating that both the appellant and his daughter were seriously injured. The 1<sup>st</sup> respondent has paid the compensation to the appellant's daughter. When the appellant is also injured then



the appellant is also entitled to compensation and it cannot be stated the claim as “double claim”. This Court is accepting the plea of the appellant that when the appellant is injured and when he had taken treatment separately, he is also entitled to compensation and there is no double claim in the present case. Hence, the plea of the 1<sup>st</sup> respondent is rejected. In such circumstances, the appellant is also entitled to compensation.

7. After perusing the evidence Ex.A2 and Ex.A3 marked before the Tribunal, this Court is fixing the compensation as Rs.2,00,000/- as compensation without any interest. Hence, the impugned order is set aside. The 1<sup>st</sup> respondent is directed to deposit the said compensation of Rs.2,00,000/- without any interest to the credit of M.C.O.P., on the file of Claims Tribunal, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the same, less the amount already withdrawn by him, if any, by filing appropriate application before the Tribunal.



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8. With the above said observation, the Civil Miscellaneous Appeal is allowed. No costs.

**29.01.2024**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No

Tmg

To

- 1.Motor Accident Claims Tribunal /  
(Special Sub-Court, Thanjavur).
- 2.The Section Officer,  
Vernacular Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**S.SRIMATHY, J.**

Tmg

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