



*C.M.A(MD)Nos.1174 & 1175 of 2017
and Cros Obj (MD) Nos. 6 and 7 of 2018*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.07.2024**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)Nos.1174 & 1175 of 2017
and
Cros.Obj(MD) Nos.6 and 7 of 2018

C.M.A(MD)No.1174 of 2017:

M/s.Royal Sundaram Alliance Insurance Company Ltd.,
No.37, Krishnarayar Tank Road,
Madurai-01.

Represented by its Branch Manager.

... Appellant/2nd Respondent

Vs.

1.K.M.Ramachandran

... 1st Respondent/Claimant

2.S.Madheswaran

... 2nd Respondent/
1st Respondent

3.Viswanthan

... 3rd Respondent/
3rd Respondent

4.M/s.United India Insurance Company Ltd.,
Through its Divisional Manager,
Having Office at Door No.7-A,
West Veli Street,
Madurai.

... 4th Respondent/
4th Respondent



*C.M.A(MD)Nos.1174 & 1175 of 2017
and Cros Obj (MD) Nos. 6 and 7 of 2018*

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988, to set aside the fair and decreetal order, dated 30.03.2014 made in M.C.O.P.No.1260 of 2010 on the file of the Motor Vehicles Accident Claims Tribunal / I Additional Sub Judge, Madurai.

For Appellant : Mr.M.Jerin Mathew

For Respondents : Mr.M.P.Senthil – for R1
Mr.A Shajahan – for R4

Cros.Obj(MD) No.6 of 2018:

1.K.M.Ramachandran ... Cross Objector/1st Respondent

-Vs-

1. M/s.Royal Sundaram Allianz
Insurance Company Ltd.,
Through its Branch Manager,
No.37, Krishnarayar Tank Road,
Madurai. ... 1st Respondent/Appellant

2.S.Madheswaran

3.Viswanthan

4.M/s.United India Insurance Company Ltd.,
Through its Divisional Manager,
No.7A, West Veli Street,
Madurai. ... Respondents 2 to 4/
Respondents 2 to 4



*C.M.A(MD)Nos.1174 & 1175 of 2017
and Cros Obj (MD) Nos. 6 and 7 of 2018*

PRAYER: Cross Appeal filed under Order 41 Rule 22 of Civil Procedure Code, against the judgment and decree dated 30.03.2014 passed in M.C.O.P.No.1260 of 2010, on the file of the Motor Accident Claims Tribunal (1st Additional Sub Court), Madurai.

For Cross Objector : Mr.M.P.Senthil

For Respondents : Mr.Jerin Mathew – for R1
Mr.A Shajahan – for R4

C.M.A(MD)No.1175 of 2017:

M/s.Royal Sundaram Alliance Insurance Company Ltd.,
No.37, Krishnarayar Tank Road,
Madurai-01.
Represented by its Branch Manager.

... Appellant/2nd Respondent

Vs.

1.M.Rajalakshmi

... 1st Respondent/Claimant

2.S.Madheswaran

... 2nd Respondent/
1st Respondent

3.Viswanthan

... 3rd Respondent/
3rd Respondent

4.M/s.United India Insurance Company Ltd.,
Through its Divisional Manager,
Madurai.

... 4th Respondent/
4th Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988, to set aside the fair and decreetal order, dated



*C.M.A(MD)Nos.1174 & 1175 of 2017
and Cros Obj (MD) Nos. 6 and 7 of 2018*

30.03.2014 made in M.C.O.P.No.1261 of 2010 on the file of the Motor
Vehicles Accident Claims Tribunal / I Additional Sub Judge, Madurai.

For Appellant : Mr.M.Jerin Mathew

For Respondents : Mr.M.P.Senthil – for R1
Mr.A Shajahan – for R4

Cros.Obj(MD) No.7 of 2018:

1.M.Rajalakshmi ... Cross Objector/1st Respondent

-Vs-

1. M/s.Royal Sundaram Alliance
Insurance Company Limited,
Through its Branch Manager.
No.37, Krishnarayar Tank Road,
Madurai.

... 1st Respondent/
Appellant

2.S.Madheswaran

3.Viswanthan

4.M/s.United India Insurance Company Ltd.,
Through its Divisional Manager,
Madurai.

... Respondents 2 to 4/
Respondents 2 to 4

PRAYER: Cross Appeal filed under Order 41 Rule 22 of Civil
Procedure Code, against the judgment and decree dated 30.03.2014
passed in M.C.O.P.No.1261 of 2010, on the file of the Motor Accident
Claims Tribunal (1st Additional Sub Court), Madurai.



*C.M.A(MD)Nos.1174 & 1175 of 2017
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For Cross Objector : Mr.M.P.Senthil

For Respondents : Mr.Jerin Mathew – for R1
Mr.A Shajahan – for R4

COMMON JUDGMENT

The present appeals have been filed by the Insurance Company challenging the award passed in M.C.O.P.Nos.1260 & 1261 of 2010 on the file of Sub Court, Madurai primarily challenging on the ground of negligence.

2. A perusal of the claim petitions indicate that the claimants have travelled as a passenger in K.P.N Travels India Ltd., from Bangalore to Madurai on 04.10.2009. A lorry bearing Registration No.TN.52 9155 came from the opposite direction in a rash and negligent manner had dashed against the bus, in which the claimants have sustained grievous injuries. Two other passengers of the Omni bus have filed M.C.O.P.No. 39 of 2010 and 1000 of 2010 before the same Court. An award was passed in their favour, mulcting the liability upon the lorry which is insured with the appellant Insurance Company. Challenging the said award, the present Insurance Company had filed C.M.A(MD)Nos.509 of



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2014 and 1376 of 2016 before the Hon'ble Division Bench contending that the entire negligence is on the part of the bus, in which the injured claimants had travelled. Rejecting the said contention, the liability was confirmed upon the appellant Insurance Company. However, the award amount was reduced by the Hon'ble Division Bench in an order, dated 13.12.2017. Therefore, the same issue cannot be raised in the present appeal.

3. Cross Obj (MD) No.6 of 2018, has been filed by the respondent/claimant in C.M.A.(MD) No.1174 of 2017 seeking, enhancement of compensation. The claimant in M.C.O.P.No.1260 of 2010, has prayed for a compensation of Rs.2,00,000/- (Rupees Two Lakhs only).

4. The Tribunal, after considering the nature of injuries, has awarded a sum of Rs.26,320/- (Rupees Twenty Six Thousand Three Hundred and Twenty only) alone. Challenging the same, the present appeal has been filed.



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5. According to the learned counsel appearing for the cross objector, the claimant had sustained grievous injuries and therefore, the entire compensation as prayed for in the claim petition ought to have been granted.

6. A perusal of the order of the Tribunal reveals that the claimant has not filed any disability certificate. Therefore, it is clear that the claimant has not sustained partial permanent disability so as to call for any interference. In such circumstances, I do not find any merits in the Cross Objection and this Cross Objection stands dismissed.

7. Cross Obj (MD) No.7 of 2018, has been filed by the respondent/ claimant C.M.A(MD) No.1175 of 2017, seeking enhancement of compensation.

8. The claimant in M.C.O.P.No.1261 of 2010 has prayed for compensation of Rs.4,00,000/- (Rupees Four Lakhs only) before the Tribunal. The claimant has produced the disability certificate under Ex.P.23 the same has been accepted by the Tribunal and a sum of Rs. 2,000/- has been awarded for every percentage of disability. Therefore,



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under the head of permanent disability a sum of Rs.90,000/- has been awarded to the claimant. The Tribunal has further awarded a sum of Rs.25,000/- towards pain and suffering, a sum of Rs.5,000/- towards Transportation charges, a sum of Rs.5,000/- towards extra nourishment. The Tribunal, after relying upon Ex.P15 and Ex.P.16 – Bills has awarded a sum of Rs.8,878/- towards medical expenses. In total, a sum of Rs.1,33,878/- has been awarded by the Tribunal.

9. The learned counsel appearing for the cross objector had contended that the claimant has been admitted in hospital thrice and therefore, the medical expenses towards Scan and Xray charges should have been awarded by the Tribunal. However, a perusal of the order indicates that except Ex.P15 and Ex.P.16, no bills have been produced by the claimant to substantiate her medical expenses. In such circumstances, this Court is not in a position to consider enhancement of compensation. The Tribunal has fixed the compensation based upon the proper facts and therefore, there are no merits in the cross objections.



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10. Accordingly, both the Civil Miscellaneous Appeals and the
Cross Objections are dismissed. No costs.

03.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
gbg/ebsi

To

1.The Motor Vehicles Accident Claims Tribunal /
I Additional Sub Judge, Madurai.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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