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CMA No. 2340 of 2006



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-06-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 2340 of 2006

Ganeshan,
S/o.Jayaraman
Kamban Thangal,Devandavadi (post)
Sanchi Tk, Villupuram Dist

Appellant

Vs

1. Thomas Mathew
S/o.V.T.Mathew,1125,
3rd Cross Subash Nagar,
Bangalore Road, Neelamangala Dist.
Karnataka

2.The United India Insurance Co.
Ltd., Bangalore Div. VI,
6, Chitrapur Bhavan,
5th Floor, 15th Cross, 8th Main
Malleswaram, Bangalore 560 055

Respondents



PRAYER :- Civil Miscellaneous Appeal filed under Sec.30 of Workmen Compensation Act, praying to set aside the order of Commissioner for Workmen's Compensation, Salem in W.C.No. 367 of 2003 dated 25.10.2004.

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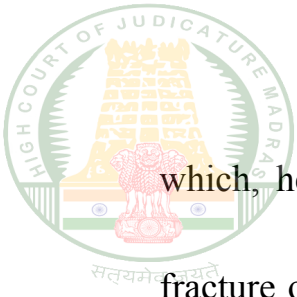
For Appellant: Mr.A.K.Kumaraswamy

For Respondents: RR1 And RR2 - No Such Addressee

JUDGMENT

The claimant not being satisfied with the quantum of compensation awarded by the Commissioner for Workmen's Compensation, Salem in W.C. No.367 of 2003, dated 25.10.2004 has preferred this appeal seeking for enhancement of compensation.

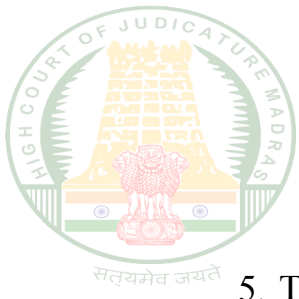
2.The case of petitioner is that on 13.03.2003 as per the instructions of first respondent, the petitioner was driving the lorry bearing Regn. No.KA-01 A-1121 from Bangalore to Coimbatore. On 14.03.2023 at about 04.30 a.m. while the petitioner was driving the lorry near Ammapettai along Mettur to Bhavani Main road from north to south direction, a lorry driven by the 1st respondent in a rash and negligent manner dashed on the petitioner. Due to



which, he sustained fracture on the right hand below the elbow and another fracture over the right collar region, lacerated injuries all over the body. Under these circumstances, the claim petition came to be filed before the Commissioner of Workmen Compensation seeking for payment of compensation.

3.The Commissioner for Workmen's Compensation on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the negligence on the part of the 1st respondent. Having rendered such a finding, the Tribunal fixed the total compensation payable at $60\% \times 3082 \times 213.57 \times 18\% =$ Rs.71,088/- and the same was directed to be paid with interest at the rate of 9% per annum. Aggrieved by the quantum of compensation fixed by the Tribunal, the appellant/petitioner has filed the present appeal before this Court.

4.Heard and considered submissions made by learned counsel appearing for appellant and perused materials available on record.

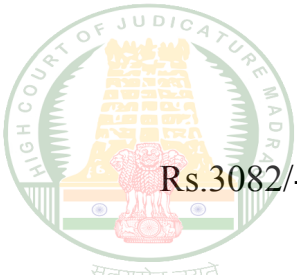


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5. The learned counsel for appellant would submit that the accident took place in the year 2003, but while fixing the award, the tribunal failed to take note of the fact that he has earned a sum of Rs.4000/- per month as a driver of 1st respondent and during the course of employment, he sustained injuries but without considering the same, the tribunal fixed his monthly income as Rs.3082/-. Hence, he prayed to set aside the findings of Workmen's Compensation.

6. The notices sent to the respondents was returned with an endorsement “no such addressee”.

7. Admittedly, on seeing the facts, it reveals that at the time of alleged accident, the petitioner was the driver of lorry belong to 1st respondent and during the course of employment, he sustained injury. The accident was happened in the year 2006, since he being a driver by profession, he would have earned a sum of Rs.4000/- per month, but the trial judge has fixed only a sum of



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Rs.3082/- by relying the Government order. Considering the fact that there is no contra evidence on the side of respondents and as a driver, he would have earned Rs.4000/- per month. Accordingly, the monthly salary is to be enhanced as Rs.4000/-. The compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court. Furthermore, Doctor, who was examined as P.W.2 certified the disability at 23% of partial permanent disability, but the tribunal fixed 18% disability without any reason. Considering the evidence of Doctor, the functional disability is fixed at 23%. In the said circumstances, the compensation awarded by the tribunal is modified as $60/100 \times 4000 \times 213.57 \times 23/100 = \text{Rs. } 1,17,890/-$.

8. Accordingly, the compensation awarded by the Workmen Compensation at Rs.71,800/- is enhanced to Rs.1,17,890/-. The second respondent insurance company is directed to deposit the enhanced compensation of Rs.1,17,890/-, less the amount already deposited, together with interest at 9% p.a. from the date of claim petition till the date of deposit within a period of eight weeks from the date of receipt of this judgment. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be



paid by the claimants. The other directions issued by the Workmen

Compensation with regard to the mode of payment of compensation remains

unaltered.

9. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

12-06-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. Commissioner for Workmen's Compensation, Salem.

2. Section Officer, VR Section, Madras High Court.



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T.V.THAMILSELVI J.

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