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Civil Miscellaneous Appeal Nos.156 and 157 of 2012 and 2701 and 2702 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.Nos.156 and 157 of 2012 and 2701 and 2702 of 2016

Prayer in C.M.A.No.156 of 2012

M.Ramesh

... Appellant

Vs.

1.R.Srinivasa Moorthy

2.The New India Assurance Company Limited,
No.45, Moore Street, V Floor,
Chennai-600 001.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 09.09.2011 made in M.A.C.T.O.P.No.4693 of 2006 on the file of the V Small Causes Court (Motor Accident Claims Tribunal), Chennai.

For Appellant : Mr.N.M.Muthurajan

For Respondents : R1-Ex-parte
Mr.R.Vinoth for R2



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Prayer in C.M.A.No.157 of 2012

R.Lakshmanan

... Appellant

Vs.

1.R.Srinivasa Moorthy

2.The New India Assurance Company Limited,
No.45, Moore Street, V Floor,
Chennai-600 001.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 09.09.2011 made in M.A.C.T.O.P.No.4704 of 2006 on the file of the V Small Causes Court (Motor Accident Claims Tribunal), Chennai.

For Appellant : Mr.N.M.Muthurajan

For Respondents : R1-Ex-parte
Mr.R.Vinoth for R2

Prayer in C.M.A.No.2701 of 2016

The New India Assurance Company Limited,
No.45, Moore Street, V Floor,
Chennai-600 001.

... Appellant

Vs.

1.M.Ramesh

2.R.Srinivasa Moorthy

... Respondents



Civil Miscellaneous Appeal Nos.156 and 157 of 2012 and 2701 and 2702 of 2016

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 09.09.2011 made in M.A.C.T.O.P.No.4693 of 2006 on the file of the V Small Causes Court (Motor Accident Claims Tribunal), Chennai.

For Appellant : Mr.K.Vinod

For Respondents : Mr.N.M.Muthurajan for R1
R2-Ex-parte

Prayer in C.M.A.No.2702 of 2016

The New India Assurance Company Limited,
No.45, Moore Street, V Floor,
Chennai-600 001.

... Appellant

Vs.

1.R.Lakshmanan

2.R.Srinivasa Moorthy

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 09.09.2011 made in M.A.C.T.O.P.No.4704 of 2006 on the file of the V Small Causes Court (Motor Accident Claims Tribunal), Chennai.

For Appellant : Mr.K.Vinod

For Respondents : Mr.N.M.Muthurajan for R1
R2-Ex-parte



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COMMON JUDGMENT

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Though C.M.A.Nos.156 & 157 of 2012 were taken up for hearing and dismissed on 07.11.2024, however, on the mentioning made by the learned counsels appearing for both sides that C.M.A.Nos.2701 and 2702 of 2016 are pending which are connected with the very same M.C.O.P.Nos.4693 and 4704 of 2006, the matters were directed to be listed under the caption for clarification on 29.01.2025. After hearing the learned counsels appearing for both sides, the order dated 07.11.2024 is recalled and this common judgment is passed.

2. For the sake of convenience and clarity, the parties are referred to as per their ranking before the Tribunal.

3. The case of the claimants is that on 05.09.2006 at about 17.00 hours, when the claimant in M.C.O.P.No.4704 of 2006 was riding the motorcycle bearing Reg.No.TN 21 P 9487 along with the pillion rider, who is the claimant in M.C.O.P.No.4693 of 2006, and was proceeding from Melmaruvathur to Arapadu Village, the car bearing Reg.No.TN 10 D 2037 owned by the first respondent and insured with



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the second respondent was driven by its driver in a rash and negligent manner and dashed against the claimants' vehicle, due to which, they sustained injuries. It is under these circumstances, the claimants have filed the claim petitions in M.C.O.P.Nos.4693 and 4704 of 2006 before the Motor Accident Claims Tribunal, V Small Causes Court, Chennai.

4. The Tribunal, on considering the facts and circumstances of the case and on appreciation of evidence, came to a conclusion that the accident has occurred only due to the rash and negligent driving on the part of the driver of the car. While deciding the compensation under various heads, the Tribunal came to a conclusion that the following compensation can be awarded:

M.C.O.P.No.4693 of 2006

Sl.No.	Compensation awarded under the head	Amount (in Rs.)
1.	Permanent disability and Loss of earning Power	3,67,200/-
2.	Pain and Suffering	40,000/-
3.	Medical Expenses	1,18,000/-
4.	Extra Nourishment	30,000/-
5.	Transport to Hospital	25,000/-
6.	Damages to Clothes	1,000/-



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7.	Attender Charges	25,000/-
8.	Loss of Marital Status	30,000/-
9	Loss of earning	Rs.27,000/-
	Total	6,63,200/-

The amount of Rs.6,63,200/- was directed to be paid along with interest at 7.5% p.a.

M.C.O.P.No.4704 of 2006

Sl.No.	Compensation awarded under the head	Amount (in Rs.)
1.	Permanent disability and Loss of earning Power	5,96,700/-
2.	Pain and Suffering	75,000/-
3.	Medical Expenses	2,23,500/-
4.	Extra Nourishment	40,000/-
5.	Transport to Hospital	32,500/-
6.	Damages to Clothes	1,000/-
7.	Attender Charges	50,000/-
8.	Loss of Marital Status	1,00,000/-
9.	Mental Agony	50,000/-
10.	Loss of earning	45,000/-
	Total	12,25,700/-

The amount of Rs.12,25,700/- was directed to be paid along with interest at 7.5% p.a.



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5. The learned counsel appearing for the claimants submits that the claimants have filed the appeals in C.M.A.Nos.156 and 157 of 2012 mainly on the ground that though the Tribunal has awarded compensation to the claimants by applying multiplier method and found that the disability sustained by the claimants is a functional disability, the notional income fixed by the Tribunal at Rs.4,500/- is very meagre and the amount awarded under the head pain and sufferings is also very meagre and the amount awarded under the other heads is not sufficient.

6. The learned counsel appearing for the second respondent/Insurance Company submitted that the Tribunal has erred in fixing the liability against the driver of the car and the quantum of compensation awarded by the Tribunal is on the higher side and not in consonance with the facts and circumstances of the case.

7. Heard the learned counsel appearing for both sides.



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8. This Court has carefully considered the submissions made on either side and the materials available on record. This Court has also carefully gone through the awards that were passed by the tribunal and the reasons assigned therein.

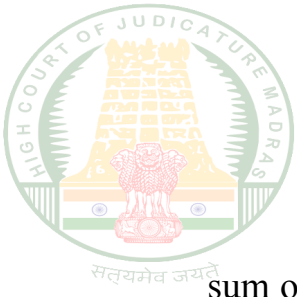
9. The claimants have filed the appeals in C.M.A.Nos.156 and 157 of 2012 challenging the quantum of compensation, whereas, the second respondent/Insurance company have filed the appeals in C.M.A.Nos.2701 and 2702 of 2016 challenging the liability and the quantum of compensation.

10. In order to prove the negligence on the part of the driver of the offending vehicle, the claimants have examined themselves as P.W.1 and P.W.2, who have deposed that the accident had occurred due to rash and negligent driving of the driver of the offending vehicle and to rebut the said fact, the second respondent has not examined any witnesses and thereby, the Tribunal held that the accident had taken place due to the negligence on the part of the driver of the offending vehicle, which does not require any interference by this Court.



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11. In respect of quantum of compensation, the claimant in M.C.O.P.No.4693 of 2006 was aged about 24 years and the claimant in M.C.O.P.No.4704 of 2016 was aged about 25 years at the time of the accident. Though the claimants claim that they were working as agriculturists and earning a sum of Rs.10,000/- per month, they have not produced any documentary evidence to prove the same and thereby, the Tribunal, considering the nature of the work, has fixed the notional income of the claimants at Rs.4,500/- and applied the appropriate multiplier “17” in both the cases and taken the disability of the claimant in M.C.O.P.No.4693 of 2006 as 40% and taken the disability of the claimant in M.C.O.P.No.4704 of 2006 as 65% and thereby, awarded a sum of Rs.3,67,200/- to the claimant in M.C.O.P.No.4693 of 2006 and awarded a sum of Rs.5,96,700/- to the claimant in M.C.O.P.No.4704 of 2006 under the heads permanent disability and loss of earning power which in the considered view of this Court is sufficient and not excessive one and a sum of Rs.40,000/- and Rs.75,000/- awarded under the head pain and sufferings to the claimants is just and reasonable. In respect of medical expenses, as per the medical bills produced by the claimants, a



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sum of Rs.1,18,000/- and Rs.2,23,500/- was awarded under the said head to the claimants and the amount awarded under the other heads is also just and reasonable and it does not require any interference by this Court.

12. Accordingly, C.M.A.Nos.156 and 157 of 2012 filed by the claimants and C.M.A.Nos.2701 and 2702 of 2016 filed by the second respondent/Insurance Company are dismissed. There shall be no order as to costs.

29.01.2025

Speaking Judgment/Non-speaking Judgment
Index :Yes/No
Neutral citation: Yes/No
ssb

To

The Motor Accident Claims Tribunal,
V Small Causes Court,
Chennai.



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M.DHANDAPANI, J.

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