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CMA No. 436 of 2011



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-07-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 436 of 2011

1. The National Insurance Co.Ltd

Appellant(s)

Vs

1. Thiru Ravi

Respondent(s)

CMA No. 436 of 2011

PRAYER:

To set aside the decree and judgment passed in MCOP No. 559 of 2007 dated 17.12.2009(Principal Sub Ordinate Judge) at Tirupur District.

CMA No. 436 of 2011

For Appellant(s): Mr.J.Chandran

For Respondent(s): Mr.Ma.P.Thangavel For R1 Batta
Due R2

ORDER

This Civil Miscellaneous Appeal has been filed to set aside the decree and judgment passed in MCOP No. 559 of 2007 dated 17.12.2009 (Principal Sub Ordinate Judge) at Tirupur District.



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2. Both side counsels appeared and submits that thought there was settlement arrived between the parties, the first respondent/claimant has not signed in the Lok Adalat Award dated 23.04.2019. Therefore, earlier order passed by this Court dated 11.06.2025 is re-called. Accordingly, this Civil Miscellaneous Appeal is restored.

3. On 08.04.2007, at 03.00 p.m., when the claimant was walking on left side of N.H 47 road, at Avinasi Government Girls hostel, at that time the bus bearing registration no. KA 19 AE 0001 driven by its driver in a rash and negligent manner dashed behind the claimant, due to which the claimant sustained injuries and thereafter the claimant was admitted in the hospital. After treatment the petitioner was not able to do his work as he did before. Hence, the claimant filed the MCOP No. 559 of 2007 on the file of the (Principal Sub Ordinate Judge) at Tirupur District, claiming Rs.5,00,000/- compensation. The respondent contested the case by filing counter. On the side of the claimant, the three witnesses were examined as P.W.1 to P.W.3 and marked documents as Ex.P1 to Ex.P5. There is no oral and documentary evidence on the side of the respondent.

4. On considering the oral and documentary evidence, the Tribunal awarded compensation of Rs.2,68,700/- with interest. Aggrieved over the same, the claimant preferred this Civil Miscellaneous Appeal.

5. The learned counsel for the Insurance Company submits that accident



was happened due to the negligence of the claimant but the same has not been considered by the Tribunal. Further, the Tribunal has erroneously appreciated the evidence of P.W.2/Doctor who assessed 53.3% permanent disability since, he had not stated about the fracture of thy bone and discharge summary also did not disclose the fracutre of thigh bone, patella, loss of eye sight. Therefore, the Tribunal ought to have rejected the evidence of P.W.2 but erroneously awarded compensation. Hence, he prays to set aside the award passed by the Tribunal.

6. The learned counsel for the claimant submits that to prove the negligence of the claimant the appellant has not produced any material without which they are not entitle to challenge the award passed by the Tribunal. Hence, he prays to dismiss the appeal.

7. Heard the learned counsel for the appellant and the learned counsel for the respondent.

8. Admittedly, though the appellant filed counter objection, had failed to adduced oral and documentary evidence to prove the case. Nor produced any contra evidence before the Tribunal with regard to evidence of P.W.2. On the other side, the claimant has proved the manner of accident by examining eye witnesses and documentary evidence, through which the claimant has proved the rash and negligent driving of the driver of the bus which requires no interference. However, in respect of award passed by the tribunal, this Court is inclined to reduce the disability fixed by the Tribunal from 45% to 40%.



Accordingly, the claimant is entitled to Rs.2,18,400/-(3500x12x13x40/100) under the head of disability. Further, this Court is inclined to enhance the amount awarded under head of pain and sufferings from Rs.15,000/- to Rs. 20,000/-. Except above modification, the award passed by the Tribunal in other heads remain unchanged.

S.No.	Heads	Compensation awarded by the tribunal.	Compensation awarded by this Court
1.	Loss of dependency	Rs. 2,45,700/-	Rs.2,18,400/-
2.	Pain and sufferings	Rs.15,000/-	Rs.20,000/-
3.	Extra Nourishment	Rs.2,000/-	Rs.2,000/-
4.	Loss of Amenities	Rs.5,000/-	Rs.5,000/-
5.	Transportation charges	Rs.1,000	Rs.1,000/-
	Total	Rs.2,68,700/-	Rs.2,46,400/-

9. In view of the discussions made earlier, the compensation awarded by the Tribunal is reduced to **Rs.2,46,400/-**. The appellant is directed to deposit the said amount together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, to the credit of MCOP No. 559 of 2007 on the file of the (Principal Sub Ordinate Judge) at Tirupur District, within a period eight weeks from the date of receipt of a copy of this judgement, after deducting amount if any deposited before the tribunal. On such deposit, the claimant is permitted to withdraw the award amount by making formal application before the Tribunal. Further, the Interest for the default period is ordered to be waived.



10. With the above direction, the Civil Miscellaneous Appeal is disposed

of. No costs.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1.The (Principal Sub Ordinate Judge) at Tirupur District.

2.The Section officer, V.R. Section, High Court, Madras.



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T.V.THAMILSELVI J.
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