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C.M.A.No.2784 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No. 2784 of 2021 and
C.M.P.No.15890 of 2021

United India Insurance Company Ltd.,
No.104-A, Ranga Building,
Peramanur Main Road,
Near Four Roads, Salem District.

... Appellant

Vs.

1. Raja
2. Karthi

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 11.03.2020 passed in M.C.O.P.No.60 of 2019 on the file of Motor Accidents Claims Tribunal, Special Subordinate Judge No.2, Salem.

For Appellant : Mr.A.Dhiraviyanathan

For Respondents : Mr.S.P.Yuaraj for R1

JUDGMENT

Aggrieved by the award passed by the Motor Accidents Claims Tribunal (Special Subordinate Judge No.2), Salem in M.C.O.P. No.60 of



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2019, the insurance company has filed this appeal.

2. Brief facts are that on 29.09.2018, when the claimant/first respondent was walking on the extreme left side of Chinnappampatty to Elampillai Road, near Pappapatti Petrol Bunk, a bike bearing Regn. No.TN 54 Q 7764 ridden by its rider/second respondent in a rash and negligent manner came in the same direction and hit behind the claimant, due to which, the claimant suffered grievous injuries all over the body. Immediately after the accident, the claimant was admitted in hospital and treated as inpatient. Alleging that the second respondent/rider of the motorcycle is responsible for the accident, the claimant has filed the claim petition claiming compensation of Rs.15,00,000/-.

3. Resisting the claim petition and also denying the manner of accident, age, avocation and income of the claimant, the insurance company has filed a counter affidavit.

4. To substantiate the claim, the claimant examined himself as P.W.1 and the doctor who treated the claimant as P.W.2 and marked



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Exs.P1 to P9. On behalf of the insurance company, one Mr.Robert working in Salem Vinayaga Hospital was examined as D.W.1 and Exs.D1 to D3 were marked. Apart from that, discharge summary and wound certificate were marked as W.Ws.1 and 2.

5. Upon consideration of the oral and documentary evidence, the Tribunal held that the accident had occurred due to the rash and negligent driving of the second respondent and therefore, the insurance company is liable to pay the compensation.

6. The claimant was aged 45 years at the time of accident and earning a sum of Rs.15,000/- per month. In the absence of any evidence to prove the income, the Tribunal fixed the income at Rs.8,000/- per month and determined the total compensation payable at Rs.4,20,883/- together with interest at 7.5% per annum under various heads in the following manner:

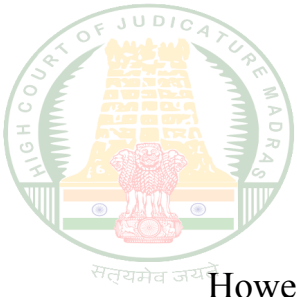
<i>Head</i>	<i>Compensation Awarded by the Tribunal</i>
Permanent Disability (Rs.2,000/- x 47.6%)	Rs.1,42,800. 00
Pain and suffering	Rs.40,000.00



<i>Head</i>	<i>Compensation Awarded by the Tribunal</i>
Loss of amenities	Rs.40,000.00
Medical expenses	Rs.1,19,083.00
Loss of income during the period of treatment and during the period of ...	Rs.48,000.00
Transport expenses	Rs.10,000.00
Extra nourishment	Rs.10,000.00
Attender charges	Rs.10,000.00
Damages to clothes	Rs.1,000.00
Total	Rs.4,20,883.00

7. Heard Mr.A.Dhiraviyanathan, learned counsel for the appellant insurance company and Mr.S.P.Yuaraj, learned counsel for the first respondent.

8. Learned counsel for the appellant insurance company submitted that the compensation awarded by the Tribunal is excessive and the claimant, who was unable to collect the details of the vehicle which caused the accident, managed to show the motorcycle bearing Regn. No.TN 54 Q 7764 as offending vehicle. Learned counsel further submitted that the discharge summary, accident register and wound certificate would reveal that four wheeler dashed against the claimant.



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However, subsequently, the same was corrected and FIR has been registered against the driver of the vehicle insured with the appellant. This contradiction was not properly adjudicated by the Tribunal and without considering the same, the Tribunal has fastened the entire liability as against the appellant which is per se unsustainable.

9. Per contra, learned counsel for the claimant submits that admittedly there may be some correction in the accident register and wound certificate but that will not disprove the rights of the claimant to claim compensation. Mere correction in the above said documents will not lead to dis-entitlement of the claimant to claim compensation.

10. On the question of liability, we do not find any reason to interfere with the factual finding rendered by the Tribunal. The Tribunal took into consideration the fact that the insurance company has not examined the second respondent, who is alleged to have caused the accident or any eye witness to the accident or the investigating officer to prove that the vehicle which caused the accident is not insured with the appellant. Moreover, the insurance company has not even examined



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anyone from the insurance company nor filed any document. There is no contra material to discredit the evidence adduced on behalf of the claimant.

11. Upon considering the evidence available on record, the Tribunal has awarded a total compensation of Rs.4,20,883/- which is just and reasonable and the same does not warrant any interference at the hands of this Court.

12. For the reasons aforesaid, this Appeal stands dismissed, confirming the award passed by the tribunal in MCOP.No.60 of 2019 dated 26.10.2021 and the appellant / Insurance company is directed to deposit the compensation of **Rs.4,20,883/-** awarded by the tribunal to the credit of M.C.O.P.No.60 of 2019 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less the amount, if any, already deposited, within a period of six weeks (6) from the date of receipt of a copy of this judgment, if not already deposited. On such deposit being made, the



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Tribunal is directed to transfer the said amount to the first respondent / claimant directly to his bank account through RTGS within a period of two (2) weeks thereafter. There shall be no order as to costs in this appeal. Consequently, connected miscellaneous petition is closed.

29.01.2025

Index : Yes / No

Speaking order / Non-speaking order

Netrual Citation Case : Yes / No

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To

1. Motor Accidents Claims Tribunal, Special Subordinate Judge No.2, Salem.

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

M.DHANDAPANI, J.



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