



CMA.Nos.3627, 3632 and 3633 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 05.03.2025

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA.Nos.3627, 3632 and 3633 of 2021

CMA.No.3627 of 2021:

S.Abinaiya (Minor)

Rep.by M&N.F.Pushpa Devi

... Appellant

Vs.

1.The Managing Director,
Tamil Nadu State Express Transport Corporation Limited,
Pallavan Salai,
Chennai – 600 002.

2.M.B.Sathya

3.ICICI Lombard General Insurance Company Limited,
No.140, 3rd Floor,
Nungambakkam High Road,
Chennai – 600 034.

Now at:

ICICI Lombard General Insurance Company Limited,
“Harihant Plaza” 1st Floor,
No.84 and 85, Walltax Road,
Chennai – 600 003.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to set aside the award passed on 13.10.2020 by the learned II Special Sub Judge, Small Causes Court (Motor Accident Claims Tribunal), Chennai, in MCOP.No.472 of 2014 and award just compensation.



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CMA.Nos.3627, 3632 and 3633 of 2021

For Appellant : Mr.A.Shanmugaraj
For Respondents : Mr.K.Kathiresan for R1
M/s.B.Sivakolappan for R3
Notice dispensed with for R2

CMA.No.3632 of 2021:

P.Ponnuthai

... Appellant

Vs.

1.The Managing Director,
Tamil Nadu State Express Transport Corporation Limited,
Pallavan Salai,
Chennai – 600 002.

2.M.B.Sathya

3.ICICI Lombard General Insurance Company Limited,
No.140, 3rd Floor,
Nungambakkam High Road,
Chennai – 600 034.

Now at:

ICICI Lombard General Insurance Company Limited,
“Harihant Plaza” 1st Floor,
No.84 and 85, Walltax Road,
Chennai – 600 003.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to set aside the award passed on 13.10.2020 by the learned II Special Sub Judge, Small Causes Court (Motor Accident Claims Tribunal), Chennai, in MCOP.No.473 of 2014 and award just compensation.

For Appellant : Mr.A.Shanmugaraj



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CMA.Nos.3627, 3632 and 3633 of 2021

For Respondents : Mr.K.Kathiresan for R1
M/s.B.Sivakolappan for R3
Notice dispensed with for R2

CMA.No.3633 of 2021:

S.Eswari

... Appellant

Vs.

1.The Managing Director,
Tamil Nadu State Express Transport Corporation Limited,
Pallavan Salai,
Chennai – 600 002.

2.M.B.Sathya
3.ICICI Lombard General Insurance Company Limited,
No.140, 3rd Floor,
Nungambakkam High Road,
Chennai – 600 034.

Now at:

ICICI Lombard General Insurance Company Limited,
“Harihant Plaza” 1st Floor,
No.84 and 85, Walltax Road,
Chennai – 600 003.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to set aside the award passed on 13.10.2020 by the learned II Special Sub Judge, Small Causes Court (Motor Accident Claims Tribunal), Chennai, in MCOP.No.478 of 2014 and award just compensation.

For Appellant : Mr.A.Shanmugaraj
For Respondents : Mr.K.Kathiresan for R1
M/s.B.Sivakolappan for R3
Notice dispensed with for R2

COMMON JUDGMENT



CMA.Nos.3627, 3632 and 3633 of 2021

The appellants are injured claimants and they are seeking enhancement of the compensation.

2. It is not in dispute that all the injured claimants travelled in a Tata Magic Vehicle on 15.08.2011, while proceeding from North to South in East Coast Road, the bus belonging to the first respondent's corporation came in a rash and negligent manner and dashed against the Tata Magic, as a result of the accident, the claimants suffered grievous injuries. Therefore, the claim petitions were filed by them seeking compensation.

3. The Tribunal based on the evidence available on record came to the conclusion that the accident had occurred only due to the negligence on the part of the driver of the bus belonging to the first respondent's Corporation. The compensation payable to the appellants were fixed at Rs.50,100/-, Rs.1,19,900/- and Rs.1,04,700/- respectively. Not satisfied with the quantum of compensation awarded by the Tribunal, the claimants have come by way these appeals.

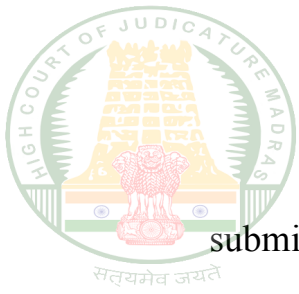
4. Both the learned counsel appearing for the appellants as well



as respondents have no arguments to advance on the questions of negligence as well as liability. Therefore, facts necessary for considering those aspects are not discussed in this judgment.

5. The learned counsel appearing for the appellants would submit that all the claimants suffered grievous injuries and in order to prove the injury and the consequent disability, the claimants examined PW.4-Doctor and marked disability certificate issued by him as Exs.P21 to 23. The Tribunal without taking into consideration the evidence of Doctor had erroneously reduced the disability percentage fixed by him and awarded a lesser compensation. Therefore, according to the learned counsel the amount awarded by the Tribunal requires enhancement.

6. The learned counsel appearing for the first respondent/Corporation would vehemently contend that the claimants have not examined the Doctor who treated them and PW.4 is only a Doctor, who examined the claimants after three years. Therefore, the Tribunal is right in fixing the disability on percentage basis by taking into consideration the nature of the injury suffered by the claimants. The learned counsel further



CMA.Nos.3627, 3632 and 3633 of 2021

submitted that the claimants have failed to subject themselves for examination by the Medical Board. Therefore, they are not entitled to rely on the evidence of Doctor who has not treated them.

7. As far as the claimant in CMA.No.3627 of 2021 is concerned, a perusal of the medical record and disability certificate in Ex.P21 would indicate that she suffered head injury and crush injury in the right hand. It is seen from Ex.P4-medical record produced by the claimant, she had taken treatment only as an out patient and injuries suffered by her are simple injuries. Taking into consideration, the said fact, the Tribunal awarded lumpsum of Rs.50,000/- towards simple injuries suffered by her and the same appear to be more than sufficient, considering the date of accident. The Tribunal based on Ex.P3-Medical bill awarded a sum of Rs.100/- towards medical expenses. Hence, the said amount is confirmed and CMA.No.3627 of 2021 is dismissed.

8. The claimant in 3632 of 2021 suffered head injury and fracture in left shoulder. The PW.4-Doctor who issued a disability



CMA.Nos.3627, 3632 and 3633 of 2021

certificate fixed disability at 40%. However, during the course of his examination, he clearly deposed that he was not a doctor who treated the claimant and he also deposed that he examined the claimant only after three years and he had not noted anything regarding the restriction of movement and difficulty in using the affected limbs etc. He also admitted that he is not a competent person to issue any certificate regarding the effect of head injury suffered by the victim. Taking into consideration, the categorical admission of PW.4, doctor who has not treated claimants at the time of accident, the Tribunal reduced the disability percentage assessed by him to 20%. It appears that the amount awarded by the Tribunal in various other heads like pain and suffering, transport expenses, extra nourishment, loss of income etc., are fair and reasonable. The amount of Rs.29,860/- awarded under the head medical expenses is based on evidence available on record. Therefore, the total amount of Rs.1,19,900/- fixed by the Tribunal as compensation for the victim is fair and reasonable and it requires no interference and accordingly, CMA.No.3632 of 2021 is dismissed.

9. As far as the claimant in CMA.No.3633 of 2021 is concerned, she suffered fracture in the left wrist. PW.4 Doctor assessed the



CMA.Nos.3627, 3632 and 3633 of 2021

disability at 30% and issued disability certificate as Ex.P23. As mentioned earlier, in is evidence of PW.4, clearly admitted that he was not the doctor who treated them and he examined claimant only three years after accident. He also clearly admitted that he has not measured the restriction in the movement and difficulty in use of affected limb. Therefore, the Tribunal rightly reduced the percentage of disability assessed by him to 15% and compensation awarded at the rate of Rs.3,000/- per percentage is reasonable. The amount awarded by the Tribunal under various other heads like loss of pain and suffering, transport expenses, extra nourishment are fair and reasonable. The amount of Rs.29,679/- awarded by the Tribunal under the head medical expenses is based on Ex.P18-medical bills. Therefore, the claimants have not made out any case to interfere with the quantum of compensation and accordingly, CMA.No.3633 of 2021 is also dismissed.

10. In view of the discussions made earlier, these Civil Miscellaneous Appeals are dismissed. No costs.



CMA.Nos.3627, 3632 and 3633 of 2021

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05.03.2025

Index : Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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To

1. Motor Accident Claims Tribunal,
II Special Sub Judge, Small Causes Court, Chennai.

2. The Section Officer

VR Section,

High Court, Madras.

S.SOUNTHAR, J.
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