



CMA.Nos.3538, 3569 and 3647 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.3538, 3569 and 3647 of 2021

CMA.No.3538 of 2021:

S.Indumathi

... Appellant

Vs.

1.K.Rajendran

2.National Insurance Company Limited,

No.751, Anna Salai, Chennai – 2,

B.R.No.738,

Anna Salai, Chennai – 600 002.

Now at

“Loyal Tower” 1st Floor,

T.P.Cell, Hub,

No.66, Greams Road,

Chennai – 600 006.

... Respondents

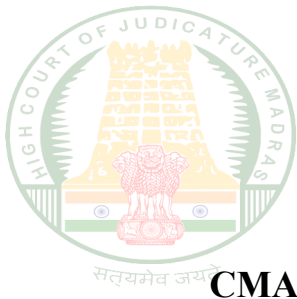
Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to award just and more compensation than the award passed on 23.01.2020 by the learned Special Subordinate Judge No.1, Small Causes Court (Motor Accident Claim Tribunal), Chennai in MCOP.No.1439 of 2015.

For Appellant : Mr.Ravindran

for A.Shanmugaraj

For Respondents : M/s.R.Sree Vidhya for R2

Notice dispensed with for R1



CMA.Nos.3538, 3569 and 3647 of 2021

CMA.No.3569 of 2021:
E.Visalakshi

... Appellant

Vs.

1.K.Rajendran

2.National Insurance Company Limited,
No.751, Anna Salai, Chennai – 2,
B.R.No.738,
Anna Salai, Chennai – 600 002.
Now at
“Loyal Tower” 1st Floor,
T.P.Cell, Hub,
No.66, Greams Road,
Chennai – 600 006.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to award just and more compensation than the award passed on 23.01.2020 by the learned Special Subordinate Judge No.1, Small Causes Court (Motor Accident Claim Tribunal), Chennai in MCOP.No.1458 of 2015.

For Appellant : Mr.Ravindran
for A.Shanmugaraj
For Respondents : M/s.R.Sree Vidhya for R2
Notice dispensed with for R1

CMA.No.3647 of 2021:

L.Dayalan

... Appellant

Vs.

1.K.Rajendran

2.National Insurance Company Limited,
No.751, Anna Salai, Chennai – 2,
B.R.No.738,

2/10



CMA.Nos.3538, 3569 and 3647 of 2021

Anna Salai, Chennai – 600 002.

Now at

“Loyal Tower” 1st Floor,

T.P.Cell, Hub,

No.66, Greams Road,

Chennai – 600 006.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to award just and more compensation than the award passed on 23.01.2020 by the learned Special Subordinate Judge No.1, Small Causes Court (Motor Accident Claim Tribunal), Chennai in MCOP.No.1449 of 2015.

For Appellant : Mr.Ravindran

for A.Shanmugaraj

For Respondents : M/s.R.Sree Vidhya for R2

Notice dispensed with for R1

COMMON JUDGMENT

Not satisfied with the quantum of compensation awarded by the Tribunal, the claimants have come by way of these appeals.

2. It is not in dispute that the claimants travelled in a share auto bearing registration No.TN-07-AL-3804 along East Coast Road. According to the claimants, the driver of the share auto had driven the vehicle in a rash and negligent manner and applied sudden brake, as a result of which, the auto got capsized and the claimants suffered grievous injuries.

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3. According to the claimants, the claim petitions have been filed seeking compensation of Rs.7,00,000/-, Rs.8,00,000/- and Rs.14,00,000/- respectively.

4. The claim petition was not resisted by the first respondent, who remained ex-parte before the Tribunal and was resisted by the second respondent/ Insurance Company by filing counter.

5. 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 share auto belonging to the first respondent. The Tribunal quantified the compensation payable to the claimant in CMA.No.3538 of 2021 at Rs.30,000/-. The compensation payable to the claimants in CMA.Nos.3569 and 3647 were quantified as Rs.2,54,500/- and Rs.2,23,750/- respectively. Not satisfied by the quantum of compensation, the claimants have come by way of these appeals.

6. The learned counsel appearing for the appellant would submit that in order to prove the nature of disability suffered by the

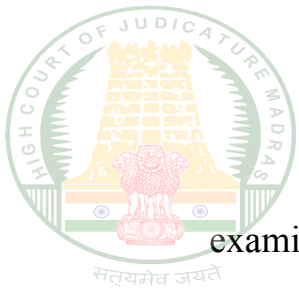


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claimants, they have examined the Doctor as PW.4 and marked disability certificates as Exs.P7, P16 and P28 respectively. He further submitted that the Tribunal without taking into consideration the evidence of Doctor and the disability certificate issued by him fixed meagre amount towards compensation under the head disability. The learned counsel also submitted that the amount awarded by the Tribunal under the head loss of income during treatment period is very much on the lower side having regard to the date of accident.

7. The learned counsel appearing for the second respondent/Insurance Company would submit that the Doctor who examined the claimants was not the one, who treated them and having regard to the nature of injuries suffered by the claimants, the Tribunal rightly fixed the percentage of disability and awarded the compensation and therefore, the same requires no interference.

8. As far as the claimant in CMA.No.3538 of 2021 is concerned, a perusal of disability certificate marked as Ex.P7 would indicate the claimant has suffered 35% disability. However, the Doctor, who was



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examined as PW.4, in his evidence clearly mentioned that the victim had suffered fracture and she had also suffered dislocation of right shoulder.

He also clearly admitted that he had not assessed the range of motion and the difficulty in use of limb etc.

9. In these circumstances, taking into consideration the evidence available on record, the Tribunal came to the conclusion that the victim has not suffered any disability. However, the Tribunal awarded a sum of Rs.30,000/- towards pain and suffering, medical expenses and the same appear to be just, fair and reasonable. Therefore, the claimant has not made out any ground to interfere with the quantum of compensation. Accordingly, the CMA.No.3538 of 2021 is dismissed.

10. The claimant in CMA.No.3569 of 2021 suffered 45% Locomotor disability as per Ex.P28-disability certificate issued by the Doctor, who was examined as PW.4. A perusal of the medical records would indicate that the claimant suffered a fracture and crush injury in the left thumb middle and ring fingers. Taking into consideration, the nature of injury, the Tribunal fixed disability at 20% as PW.4 was not a Doctor, who



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11. As far as, the claimant in CMA.No.3647 of 2021 is concerned, he suffered fracture in his left ankle, he has not examined the Doctor, who treated him. PW.4, is a Doctor who issued disability certificate Ex.P16, fixing Locomotor disability at 45%. Taking into consideration the



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evidence of Doctor that he has not mentioned the range of motion difficulty in use of limb etc., the Tribunal fixed disability at 25% and granted Rs.3,000/- per percentage of disability. Therefore, the amount of Rs.75,000/- awarded by the Tribunal under the head disability appears to be reasonable. An amount of Rs.8,000/- was fixed by the Tribunal towards notional income. Though the notional income fixed by the Tribunal and resultant amount for loss of earning during treatment period are on lower side, the Tribunal liberally awarded a sum of Rs.20,000/- towards loss of future prospects. The amount awarded by the Tribunal under the said head is untenable one. Hence, this Court is not inclined to enhance with the amount of Rs.16,000/- awarded by the Tribunal under the head loss of income for the treatment period and the amount awarded by the Tribunal under various other heads. Therefore, the claimant has not made out a case to interfere with the quantum of compensation. Accordingly, CMA.No.3647 of 2021 is also dismissed.



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12. In view of the discussions made earlier all these Civil

Miscellaneous Appeals are dismissed. No costs.

05.03.2025

Index : Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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To

1.The Motor Accident Claims Tribunal

Special Subordinate Judge No.1, Small Causes Court,
Chennai.

2.The Section Officer

VR Section,

High Court, Madras.



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S.SOUNTHAR, J.

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