



C.M.A.Nos.2073 & 2074 of 2021

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.Nos.2073 & 2074 of 2021

1.Sumathi ... Appellant in C.M.A.No.2073 of 2021

2.Govindaraj ... Appellant in C.M.A.No.2074 of 2021

Vs.

1.V.Arulnathan

2.Bharati AXA General Insurance Company Limited,
First Floor, The Ferns Icon,
Survey No.28, Next to Akme Road,
Doddanekundi, Oppouter Ring Road,
Bangalore – 560 037. ... Respondents in both appeals

Prayer in both appeals: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgement and Decree dated 10.04.2019 and in M.C.O.P.Nos.10 & 12 of 2014 on the file of the Motor Accident Claims Tribunal, Sub Judge, Vaniyambadi.

For Appellant : Mr.F.Terry Chella Raja
(in both appeals)



WEB COPY



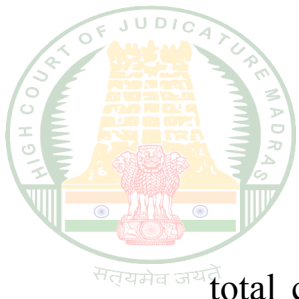
C.M.A.Nos.2073 & 2074 of 2021

For Respondents : Mr.R.Rajasekaran [R1]
(in both appeals) Mr.B.Siva Kollapan [R2]

COMMON JUDGMENT

Both the appeals arise out of a single accident. The respective claimant is before this Court seeking an enhancement of the award passed by the Motor Accident Claims Tribunal, Subordinate Judge, Vaniyambadi in M.C.O.P.Nos.10 & 12 of 2014, dated 10.04.2019.

2. As per the claim petitions, on 14.10.2013 at about 3.30 p.m., when the petitioners were travelling in two wheeler bearing Regn.No.TN-23-BM-4887, in front of Nagalamman Koil at Narayanapuram Village on Narayanapuram to Thimmampettai on main road, a Tata ACE bearing Reg.No.TN-23-BZ-5089 belonging to the first respondent, which was insured with the second respondent, driven by its driver in a rash and negligent manner and dashed against the two wheeler. Due to the impact, the claimants sustained grievous injuries. Therefore, they have filed claim petitions before the Tribunal claiming a

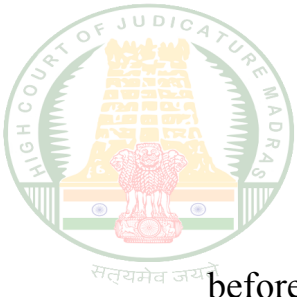


C.M.A.Nos.2073 & 2074 of 2021

total compensation of a sum of Rs.5,00,000/- each respectively for the injuries sustained by them in the said accident in M.C.O.P.Nos.10 & 12 of 2014.

3. Before the Tribunal, the claimants have examined themselves as P.W.1 and P.W.2 and marked 9 documents viz., Ex.P.1 to Ex.P.9. On the side of the second respondent/insurance company, they have examined three witnesses viz., R.W.1 to R.W.3 and marked 5 documents viz., Ex.R.1 to Ex.R.5. Apart from that, Medical Board report in M.C.O.P.No.10 of 2014 was marked as Ex.C.1. After adjudication, the Tribunal by its common order dated 10.04.2019 awarded compensation of Rs.1,27,500/- and Rs.50,000/- respectively. Not satisfied with the same, the claimants have preferred the present appeal.

4. Learned counsel appearing for the appellants/claimants submitted that, in respect of M.C.O.P.No.10 of 2014, the Tribunal ought to have awarded more compensation and the same requires to be re-considered by this Court. He further submitted that, in respect of M.C.O.P.No.12 of 2014, though the claimant/Govindaraj appeared



C.M.A.Nos.2073 & 2074 of 2021

WEB COPY

before the Medical Board, however, the Medical Board not forwarded the disability certificate to the Tribunal, which is wholly unsustainable and the same requires interference and the compensation awarded by the Tribunal under various heads are on the lower side, which requires to be re-considered by this Court. Accordingly, he prays for allowing these appeals.

5. Per contra, the learned counsel appearing for the second respondent submitted that, the appellants/claimants have sustained only lacerated injury, for which, the compensation awarded by the Tribunal in favour of the claimants under various heads are just and reasonable and the same does not require any interference. Accordingly, he prays for dismissal of these appeals.

6. Heard the learned counsel appearing for the appellants/claimants, the learned counsel appearing for the first respondent and the learned counsel appearing for the second respondent/insurance company and also perused the materials available on record.

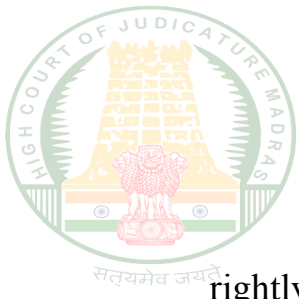


C.M.A.Nos.2073 & 2074 of 2021

WEB COPY

7. The factum of the accident is not disputed by the parties and so also the liability. Therefore, this Court is not entering into the said aspect. The only grievance of the appellants/claimants is with regard to the quantum of compensation awarded. In this regard, this Court perused the entire papers including the award passed by the Tribunal below would show that the Tribunal had arrived at a conclusion that the appellant/claimant in respect of M.C.O.P.No.10 of 2010 had sustained 25% disability based on the disability certificate issued by the Medical Board viz., Ex.C.1 and awarded compensation under various heads, which cannot said to be on the lower side and therefore, the same does not warrant any interference and the same is confirmed.

8. Insofar as the appellant/claimant in respect of M.C.O.P.No.12 of 2014, a perusal of the records reveals that he has sustained only lacerated injuries all over his body and has not not sustained any fracture. Hence, in the absence of clinching medical evidence to establish that the injuries sustained by the claimant has caused disability to him, the Tribunal has

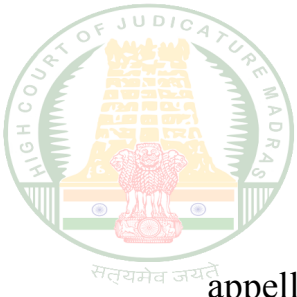


C.M.A.Nos.2073 & 2074 of 2021

WEB COPY

rightly not awarded any amount towards disability, which appears to be in order. Further, this Court is of the view that the compensation awarded by the Tribunal under the various heads are just and reasonable, which cannot be interfered with. Therefore, the award passed by the Tribunal is in no way perverse, arbitrary or unreasonable and the same deserves to be sustained.

9. Accordingly, these Civil Miscellaneous Appeals are dismissed and the common order and decree dated 10.04.2019 made in M.C.O.P.Nos.10 & 12 of 2014 on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Vaniyambadi is confirmed. The second respondent/insurance company is directed to deposit the respective award amount as awarded by the Tribunal to the credit of M.C.O.P.Nos.10 & 12 of 2014 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 four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the respective award amount directly to the bank account of the



C.M.A.Nos.2073 & 2074 of 2021

WEB COPY

appellants/claimants through RTGS within a period of two (2) weeks thereafter. It is made clear that the appellants/claimants are not entitle to any interest for the delay period, if any. No costs.

06.01.2025

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
sp

To

The Motor Accident Claims Tribunal, Subordinate Judge, Vaniyambadi.



WEB COPY



C.M.A.Nos.2073 & 2074 of 2021

M.DHANDAPANI, J.,

sp

C.M.A.Nos.2073 & 2074 of 2021

06.01.2025