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CMA.No.3571 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

CMA.No.3571 of 2024

and

CMP.No.30092 of 2024

M/s. The New India Assurance Co. Ltd.,
Rep. by its Divisional Officer,
Sedu Krishna Trade Centre, 2nd Floor,
Trichy Main Road, Gugai, Salem – 636 006.

...Appellant

Vs.

1. Muthukumarasamy
2. Praveenkumar
3. Lakshmi
4. Sudhakaran

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, as against the award and decree dated 28.06.2022 passed in MCOP.No.1429 of 2021 on the file of the Motor Accident Claims Tribunal, Salem (Chief Judicial Magistrate Court, Salem).

For Appellant : Mr.R.Sivakumar



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JUDGMENT

Challenging the order dated 28.06.2022 passed in MCOP.No.1429 of 2021 on the file of the Motor Accident Claims Tribunal, Salem (Chief Judicial Magistrate Court), the appellant has come up with this appeal.

2. It is the case of the appellant that, the 1st respondent/claimant filed a claim petition in MCOP.No.1429 of 2021 alleging that, on 25.07.2021 at about 6.30 pm., when he was riding the motor cycle bearing Regn.No.TN-34-3119 on Sankari to Erode main road, a car bearing Regn.No.TN-36-AF-8132 owned by the 3rd respondent insured with the appellant driven by the 2nd respondent came in a rash and negligent manner and dashed against the motor cycle driven by the claimant, due to which, he sustained grievous injuries and thereby, he filed a claim petition claiming a compensation of Rs.15,00,000/-. Before the Tribunal, the claimant himself as P.W.1 and marked exhibits P.1 to P.12 and on the side of respondents, no witnesses were examined and no documents were marked and Disability Certificate was marked as Court document Ex.C.1. After trial, the Tribunal, on appreciation of oral and documentary evidence came to a conclusion that the accident had taken



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place due to the rash and negligent driving on the part of the claimant as well as the 2nd respondent and fixed 50%-50% negligence and awarded a compensation of Rs.3,19,866/-. Aggrieved by the same, the appellant/ insurance company has come up with the present appeal.

3. Learned counsel for the appellant submitted that the present appeal has been by the appellant/insurance company only challenging the percentage of interest awarded on the compensation amount, which is exorbitant and this Court had repeatedly held that the maximum interest that can be fixed is 7.5%, however, contrary to the same, the tribunal had fixed interest at the rate of 9%, which is not sustainable and the same has to necessarily be interfered with. Accordingly, he prayed for appropriate orders.

4. Heard learned counsel for the appellant and perused the materials available on record.

5. This Court has considered the issue. A perusal of the documents placed on record reveals that, the accident is of the year 2021 and the



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tribunal, fixed 50% contributory negligence on the part of the claimant for not holding a valid driving license and awarded a sum of Rs.3,19,866/- towards compensation for the injuries sustained by the 1st respondent/claimant, payable by the appellant/insurance company.

6. It has been the consistent view of this Court that, an award of interest at 7.5% would be just and reasonable for the accident which has happened in the year 2021.

7. In view of the same, the interest of 9% awarded by the tribunal is modified and the compensation awarded by the tribunal at Rs.3,19,866/- will carry interest at the rate of 7.5% per annum from the date of petition till the date of realization.

8. Accordingly, this Civil Miscellaneous Appeal stands disposed of by confirming the quantum of compensation fixed by the tribunal, but modifying the interest from 9% to 7.5% and the appellant/Insurance company is directed to deposit the compensation awarded by the tribunal to the credit of MCOP.No.1429 of 2021 with interest at the rate of 7.5%



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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 said amount to the 1st respondent/claimant directly to the claimant's bank accounts through RTGS within a period of two (2) weeks thereafter. There shall be no order as to costs in this appeal. Consequently, the connected miscellaneous petition is closed.

08.01.2025

skt

NCC : Yes/No
Index : Yes/No
Speaking Order : Yes/No

To:

1. The Motor Accident Claims Tribunal,
(Chief Judicial Magistrate Court), Salem.
2. The Section Officer,
V.R. Section, High Court, Madras.



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M.DHANDAPANI, J.

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