



C.M.A.(MD)No.149 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.02.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)No.149 of 2019

and

C.M.P.(MD)No.1905 of 2019

The Divisional Manager,
The Oriental Insurance Company Ltd.,
Divisional Office,
Palghat, Shoba TSM Complex,
R.S.Road, (Opp.Town Railway Station),
Palghat,
Kerala State.

... Appellant

Vs.

1. V.Venkatesan

2. M/s.Arun Polymers
Shed No.132 & 147,
Sidco Industrial Estate,
Kappalur,
Madurai – 625 008.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Order 173 of Motor Vehicle Act, to set aside the order of the Tribunal of the Motor Accident Claims Tribunal cum Special District Judge, Tiruchirappalli made in M.C.O.P.No.851 of 2013 dated 20.03.2018.



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For Appellants : Mr.S.C.Jawagar Ravindran

For R-1 : No appearance

For R-2 : Dispensed with

JUDGMENT

The Civil Miscellaneous Appeal is filed challenging the order passed by the Special District Judge, Thiruchirappalli / Motor Accident Claims Tribunal in M.C.O.P.No.851 of 2013 dated 20.03.2018.

2. For the sake of convenience, the parties herein are referred to, as per their rank before the learned Tribunal.

3. The case is one of injury and the claimant before the learned Tribunal is the injured. The first respondent is the owner of the vehicle involved and the second respondent is the Insurance Company.

4. The brief facts in a nutshell are as follows:

(i) On 01.06.2010 at about 06.00 a.m, after purchasing two goats at Samayapuram area, the claimant was driving an auto bearing Registration No.TN-30/H-0400 on the Trichy-Chennai bypass road from north to south



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in which one Dilip Kumar, Saravanan, Rajendran and Vellaisamy were travelling along with their goats. When the petitioner / claimant reached Cauvery bridge 8th Palakattai, a lorry bearing Registration No.TN-58/Z-4691 belonging to the first respondent insured with the second respondent / Insurance Company driven by his driver in a rash and negligent manner dashed as against the auto from the south to north direction. As a result of which the auto got capsized and the claimant and the other persons travelling in the auto sustained grievous injuries.

(ii) The claimant was taken to Retna Global Hospital at Trichy and was treated there as an inpatient from 29.05.2010 to 04.06.2010. After discharge, he took treatment as an out-patient also. The petitioner had spent a sum of Rs.50,000/- towards medical expenditure and hence, seeking to compensate the injuries sustained, he had laid the M.C.O.P. before the learned Tribunal.

(iii) Five witnesses were examined on the side of the petitioner and documents Ex.P.1 to Ex.P.11 were marked on the side of the petitioner. No witnesses were examined on the side of the respondents and documents were also not marked. Witness side documents Ex.X.1 to Ex.X.4 were also marked by the learned Tribunal at the time of examination of the



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witnesses.

(iv) On the basis of the evidence deposed, documents marked and the arguments submitted by either parties, the learned Tribunal passed an award of Rs.1,12,896/-. Challenging the same, the second respondent / Insurance Company has preferred this civil miscellaneous appeal.

5. The learned Counsel appearing for the appellant submitted that the case involves a simple injury, which occurred as a result of an accident as early as in the year 2010. He further submitted that the amount of Rs.50,000/- awarded under the head of pain and suffering is highly exorbitant and the same should be drastically reduced to Rs.25,000/- and the loss of income during treatment has also been awarded to the extent of Rs.20,000/- which should be reduced to Rs.10,000/- and requiring to reduce the award by Rs.35,000/- and pressed for allowing the appeal.

6. Despite the name of the first respondent being printed, no one appeared.

7. Considering the fact that the accident occurred as early as in the



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year 2010, this Court is of the considered opinion that the amount awarded for pain and suffering is likely to be an exorbitant one and the same is reduced from Rs.50,000 to Rs.40,000/-. For loss of income during treatment, the amount of Rs.20,000/- is reduced to Rs.15,000/-. The compensation awarded by the Tribunal is modified and tabulated as hereunder:

S. No	Description	Amount awarded by the Tribunal Rs.	Amount awarded by this Court Rs.	Award confirmed or enhanced or reduced
1.	For Pain and Suffering	Rs.50,000/-	Rs.40,000/-	Reduced
2.	For Medical Bill	Rs.33,896/-	Rs.33,896/-	Confirmed
3.	For Transport and attender fee and nourishment	Rs.9,000/-	Rs.9,000/-	Confirmed
4.	For loss of income during treatment	Rs.20,000/-	Rs.15,000/-	Reduced
	Total	Rs.1,12,896/-	Rs.97,896/-	Reduced by Rs. 15,000/-

8. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,12,896/- (Rupees



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One Lakh Twelve Thousand Eight Hundred and Ninety Six only) is hereby reduced to Rs.97,896/- (Rupees Ninety Seven Thousand Eight Hundred and Ninety Six only). The claimant is entitled to get compensation, as per the apportionment made by the Tribunal.

9. The appellant/ Insurance Company is directed to deposit the compensation amount with accrued interest and costs to the credit of M.C.O.P.No.851 of 2013 on the file of the Special District Judge / Motor Accidents Claims Tribunal, Thiruchirappalli, within a period of four weeks (4) from the date of receipt of copy of this judgment, less the amount, if any already deposited. On such deposit, the claimant is permitted to withdraw the said amount, less the amount, if any already withdrawn, by making necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

1. The Special District Judge, Tiruchirappalli.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.,

jbr

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