



C.M.A.(MD)No.615 of 2025

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DATED : 07.07.2025

CORAM:

THE HON'BLE MR.JUSTICE K.K.RAMAKRISHNAN

C.M.A.(MD)No.615 of 2025

and

C.M.P.(MD)No.9997 of 2025

The Legal Manager,
MS Cholamandalam General Insurance Company
Limited,
2nd Floor, TAB Complex,
Cantonment, Trichy.

... Appellant/
2nd Respondent

Vs.

1.Santha

... 1st Respondent/
Petitioner

2.Kamaraja

... 2nd Respondent/
1st Respondent

Prayer : This Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act, to set aside the judgment and decree dated 23.11.2023 passed in M.C.O.P.No.54 of 2021 on the file of the Motor Accident Claims Tribunal (Special Sub Judge), Thanjavur and allow the civil miscellaneous appeal.



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For Appellant : Mrs.K.R.Shivashankari

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JUDGMENT

The Civil Miscellaneous Appeal has been preferred by the Insurance Company against the award dated 23.11.2023 passed in M.C.O.P.No.54 of 2021 by the Special Subordinate Judge / Motor Accident Claims Tribunal, Thanjavur.

2. The first respondent / claimant has filed a claim petition in M.C.O.P.No.54 of 2021, claiming compensation for the injuries sustained by her, in an accident that took place on 05.03.2018. The Tribunal has awarded a sum of Rs.8,00,722/- (Rupees Eight Lakhs Seven Hundred and Twenty Two only) as compensation. Against which, the appellant / insurer has preferred this appeal.

3. A brief substance of the claim petition is as follows:

The claimant was aged about 73 years and was manufacturing homely food products and was earning Rs.30,000/- per month. On 05.03.2018 at about 05.30 p.m., the claimant attempted to cross the street and while she was in midway, a passenger auto bearing Registration



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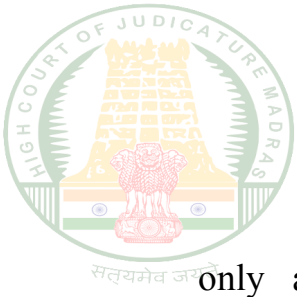
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No.TN-49-BC-3184, which came in a rash and negligent manner, had dashed against the claimant and as a result, the claimant sustained grievous injuries. She was first admitted in Vinodhagan Memorial Hospital, Thanjavur and thereafter she was admitted in Kauvery Multispecialty Hospital, Trichy and then she was admitted in Meenakshi Mission Hospital, Thanjavur and again in Kauvery Multispecialty Hospital, Trichy. Due to the accidental injuries, she is suffering from permanent disability and is unable to lead normal life as before. The claimant spent huge amount for treatment, medicines, conveyance and other charges. Therefore, the claimant claimed a sum of Rs.35,00,000/- as compensation.

4. The second respondent / first respondent, owner of the vehicle, remained *ex-parte* before the Tribunal and the claim petition was opposed by the insurer.

5. A brief substance of the counter filed by the insurer is as follows:

The income and profession of the claimant are all denied. The manner of accident as narrated by the claimant is denied. FIR was lodged



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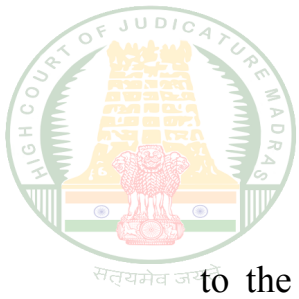
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only after five months from the date of accident. The claim of compensation is excessive and exorbitant.

6. On the side of the claimant, 1 witness was examined as P.W.1 and 27 documents were marked as Ex.P.1 to Ex.P.27. On the side of the insurer, no witness was examined and no document was marked. The disability certificate of the claimant was marked as Ex.C.1. After trial, the Tribunal has awarded a sum of Rs.8,00,722/- as compensation to be paid by the insurer. Against which, the insurer has preferred this Civil Miscellaneous Appeal.

7. Admittedly, the insurer has not challenged the negligence aspects and consequent liability fixed on them. But, on the other hand, the main challenge is only with respect to the quantum of compensation awarded by the Tribunal.

8. The main contentions of the learned counsel appearing for the insurer is that FIR was registered after 150 days from the date of alleged accident and that since the treatment taken by the claimant is not relevant



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to the accidental injuries and when the medical board has assessed the disability at 0%, granting of Rs.7,15,722/- under the medical expenses is not in accordance with law.

9. With regard to delay in lodging the FIR, the Hon'ble Supreme Court in ***Ravi Vs. Badrinarayan and others*** reported in **2011(1) TNMAC 326** has held that,

“[20] It is well-settled that delay in lodging FIR cannot be a ground to doubt the claimant's case. Knowing the Indian conditions as they are, we cannot expect a common man to first rush to the Police Station immediately after an accident. Human nature and family responsibilities occupy the mind of kith and kin to such an extent that they give more importance to get the victim treated rather than to rush to the Police Station. Under such circumstances, they are not expected to act mechanically with promptitude in lodging the FIR with the Police. Delay in lodging the FIR thus, cannot be the ground to deny justice to the victim. In cases of delay, the courts are required to examine the evidence with a closer scrutiny and in doing so; the contents of the FIR should also be scrutinized more carefully. If court finds that there is no indication of fabrication or it has not been concocted



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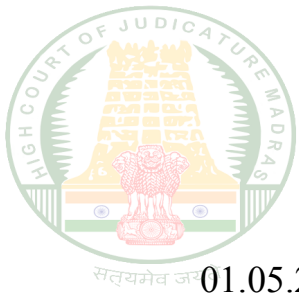


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or engineered to implicate innocent persons then, even if there is a delay in lodging the FIR, the claim case cannot be dismissed merely on that ground.

[21] The purpose of lodging the FIR in such type of cases is primarily to intimate the police to initiate investigation of criminal offences. Lodging of FIR certainly proves factum of accident so that the victim is able to lodge a case for compensation but delay in doing so cannot be the main ground for rejecting the claim petition. In other words, although lodging of FIR is vital in deciding motor accident claim cases, delay in lodging the same should not be treated as fatal for such proceedings, if claimant has been able to demonstrate satisfactory and cogent reasons for it. There could be variety of reasons in genuine cases for delayed lodgment of FIR. Unless kith and kin of the victim are able to regain a certain level of tranquility of mind and are composed to lodge it, even if, there is delay, the same deserves to be condoned. In such circumstances, the authenticity of the FIR assumes much more significance than delay in lodging thereof supported by cogent reasons.”

10. It is not in dispute that the claimant was admitted in the hospital immediately after the accident and took treatment as inpatient till



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01.05.2018 and thereafter took treatment as outpatient and hence, there was a delay of 150 days in lodging the FIR. In the absence of any contra evidence and in view of the aforesaid decision of the Hon'ble Supreme Court, this Court is of the opinion that the delay in lodging the complaint is not fatal to the case on hand and on such ground, the contention of the learned counsel appearing for the insurer cannot be sustained.

11. Now turning to the quantum of compensation, there was no contra evidence adduced by the insurer to dispute that the treatment taken by the claimant is not relating to the accidental injuries. The Tribunal, after taking note of the medical bills produced under Ex.P.11 to Ex.P.14, Ex.P. 16 and Ex.P.17, has rightly awarded Rs.7,15,722/- towards medical expenses. Considering the fact that the claimant has suffered head injuries and fractures on right side 2-9 ribs and the period of treatment, the Tribunal has rightly awarded Rs.30,000/- towards pain and suffering, Rs.15,000/- towards extra nourishment, Rs.10,000/- towards attendant charges, Rs.15,000/- towards loss of convenience, Rs.5,000/- towards damages for clothes and Rs.10,000/- towards transportation.



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12. Considering the above, the amounts awarded under the various heads above referred are very reasonable and the same cannot be said to be excessive. Hence, this Court is not inclined to interfere with the award passed by the Tribunal. Consequently, this Court concludes that the appeal is devoid of merits and the same is liable to be dismissed.

13. In the result, this Civil Miscellaneous Appeal is dismissed and the award dated 23.11.2023 passed in M.C.O.P.No.54 of 2021 on the file of Motor Accident Claims Tribunal / Special Subordinate Court, Thanjavur, is confirmed. The appellant / insurer is directed to deposit the entire award amount with accrued interest and costs, within a period of six weeks from the date of receipt of a copy of this judgment, if not already deposited and on such deposit being made, the first respondent / claimant is permitted to withdraw the said amount, with accrued interest and costs. Consequently, connected Miscellaneous Petition is closed. No costs.

07.07.2025

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

1. The Special Subordinate Judge,
Motor Accident Claims Tribunal,
Thanjavur.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN,J.

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Judgment made in
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