



C.M.A.(MD)No.1394 and 1395 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 12.03.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)No.1394 and 1395 of 2024

and

C.M.P.(MD)No.17447 of 2024

Francis ... Appellant in C.M.A.(MD)No.1394 of 2024

F.Daniel Kristoper ... Appellant in C.M.A.(MD)No.1395 of 2024

Vs.

1.Amudha

2.Royal Sundaram Alliance Insurance Co. Ltd.,
Bus Plaza, 3rd Floor, No.5G Lasons Road,
Cantonment, Tiruchirappalli.

... Respondents in both C.M.As

COMMON PRAYER : Civil Miscellaneous Appeals filed under Section 173(1) of the Motor Vehicles Act, 1988, to enhance the compensation awarded by the learned Sub Court, Kulithalai, in M.C.O.P.Nos.117 of 2013 and 327 of 2015, vide fair and decreetal order dated 26.09.2022.

For Appellant : Mr.R.S.Sivaram
(in both C.M.As)



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For R2 : Mr.S.Srinivasa Raghavan
(in both C.M.As)
For R1 : Exparte

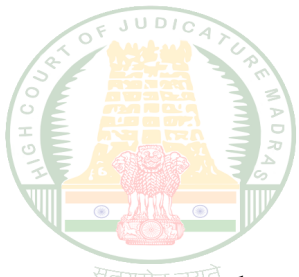
COMMON JUDGMENT

These Civil Miscellaneous Appeals have been filed by the appellants/claimants, challenging the award passed by the learned Motor Accident Claims Tribunal (Sub Judge), at Kulithalai, in M.C.O.P.Nos.117 of 2013 and 327 of 2015, dated 26.09.2022.

2.For the sake of convenience, the parties are arrayed herein as per the ranking in M.C.O.P.No.117 of 2013 and 327 of 2015.

3.The factual matrix of the present case, briefly stated, are as under:-

The claimants/injured persons are the petitioners. The first respondent is the owner of the vehicle involved. The second respondent is the insurance company. On 09.06.2012, at about 12.15 hours, while the petitioners were travelling along with another Royappan in a two wheeler bearing registration No.TN-48-S-3717 towards Koneripatti Church, a tipper lorry bearing registration No.TN-48-Z-8899 dashed



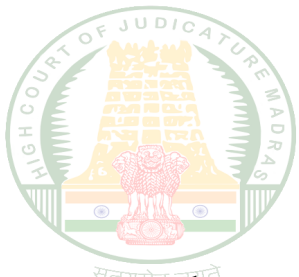
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against the two wheeler, as the result of which, the petitioners have sustained injuries and were admitted in Geethanjali Hospital, Trichy, wherein they have taken treatment as in patient and were later discharged. Seeking to compensate for those injuries sustained in the said accident, the petitioners have filed M.C.O.P.Nos.117 of 2013 and 327 of 2015 before the learned Tribunal.

4.Four witnesses were examined on the side of the petitioners as P.W.1 to P.W. 2 and 16 documents were marked as Ex.P1 to Ex.P16. No witness was examined and no document was marked on the side of the respondents. On the basis of arguments made by either parties, the evidence deposed and documents marked, the learned Tribunal proceeded to fix liability on the second respondent/insurance company and was pleased to pass an award of Rs.1,76,000/- as compensation to the petitioner in M.C.O.P.No.117 of 2013 and an award of Rs.53,000/- as compensation to the petitioner in M.C.O.P.No.327 of 2015. Challenging the same, these Civil Miscellaneous Appeals are filed. The appellant in C.M.A.(MD)No.1394 of 2024 filed a petition in C.M.P.(MD)No.17447 of 2024, seeking to receive the documents as additional documentary evidence on the side of the appellant.

5.Heard the learned counsel for the appellant, the learned counsel for the



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second respondent and carefully perused the materials available on record.

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6.A careful perusal of those documents would reveal that the same are original medical bills for the treatment undergone by Francis, which was not produced before the learned Tribunal, at the time of trial due to the inadvertence of the trial Court counsel, as claimed by the learned counsel for the appellant before this Court.

7.Considering the fact that the litigant should not suffer for the fault of the trial Court counsel, I am of the considered view that C.M.A.(MD)No.1394 of 2024 is a fit case to be remanded back to the learned Tribunal, for the purpose of marking the documents, (*) **more particularly the medical bills and service register for the purpose of enhancement of compensation on head of loss of income** and permitting the respective parties to let in evidence through appropriate witness, for marking the said documents and thereafter, pass appropriate orders. Hence, C.M.A. (MD)No.1394 of 2024 is hereby remanded back to the learned Tribunal for the reasons mentioned above and the learned Tribunal is directed to take up the matter on file for trial on 21.04.2025. Hence, C.M.A.(MD)No.1394 of 2024 is allowed.

8.As far as C.M.A.(MD)No.1395 of 2024 is concerned, the learned counsel for



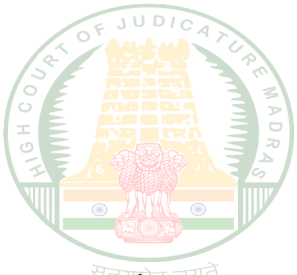
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the appellant relying upon the judgment passed by this Court in C.M.A.No.3018 of 2024 dated 20.11.2024, sought to enhance the compensation, following the mandates of the aforesaid judgment. However, I am of the considered view that the accident in that case, had happened during the year 2020. In the instant case, the accident was during the year 2012. The learned Tribunal had examined the Doctor, who treated the injured and had marked Ex.P14 through P.W.4. However, the Board had negated the certificate stating that there is no partial permanent disability and the same has been marked as Ex.C2.

9.In view of the same, the learned Tribunal had not proceeded to pass any award under the head partial permanent disability. As far as loss of income is concerned, the learned Tribunal has fixed Rs.6,000/- per month and a sum of Rs. 18,000/- was awarded for loss of income for three months, which is reasonable. Hence, I do not find any infirmity in the same and I am not inclined to interfere with the award passed in M.C.O.P.No.327 of 2015, by the learned Tribunal.

10.Accordingly, C.M.A.(MD)No.1395 of 2024 is dismissed. The appellant/claimant in C.M.A.(MD)No.1395 of 2024 is entitled to the award amount with interest at the rate of 7.5% from the date of the claim petition till the date of



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realization. The second respondent is directed to deposit the award amount with 7.5% interest from date of the claim petition till the date of realization and the amount if not deposited earlier, has to be deposited within a period of 8 weeks from the date of receipt of copy of this order. On such deposit, the appellant/claimant in C.M.A.(MD)No.1395 of 2024 is permitted to withdraw the award amount, after deducting any amount received by him earlier. The appellant/claimant in C.M.A. (MD)No.1395 of 2024 is not entitled for interest for the default period, if there is any. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

(*)Corrected as per the order of this court dated 04.04.2025 made in CMA(MD).Nos. 1394 and 1395 of 2024.

Sd/-

Assistant Registrar(CO)

// True Copy //

/04/2025

Sub Assistant Registrar()

Mrn



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To be substituted to the order which is already despatched on 17.03.2025
To

1. Sub Court,
Kulithalai.
2. The Motor Accidents Claims Tribunal,
(Sub Judge), Kulithalai.
3. The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

(I) To return the original document back to the learned counsel for the appellant within a period of three weeks from 12.03.2025.

(II) To return the records to the Court below for conduct of trial.

+1 CC to M/s.S.SRINIVASA RAGHAVAN, Advocate (SR-16547[F] dated 13/03/2025)

+1 CC to M/s.R.S.SIVARAM, Advocate (SR-16353[F] dated 13/03/2025)

+1 CC to M/s.S.SRINIVASA RAGHAVAN, Advocate (SR-16548[F] dated 13/03/2025)



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**C.M.A.(MD)Nos.1394 and 1395 of 2024
12.03.2025**

VN (17/03/2025) 8P / 8C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.

VN (08/04/2025) 8P / 8C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.