

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2015

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THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.2621 of 2015

The Managing Director,
Tamil Nadu State Transport
Corporation (Villupuram) Ltd.,
Villupuram .. Appellant/1st Respondent

-Vs-

1.R.Nagarajan ... 1st Respondent/Claimant

2.D.Muthukrishnan

3.The Divisional manager,
United India Insurance Company Ltd.,
Nehruji Road,
Villupuram 605 602 ... Respondents 2 and 3/Respondents
2 and 3

Memorandum of Civil Miscellaneous Appeal under Section 173
Motor Vehicles Act, 1988 against the Judgment and decree dated
13.02.2015 passed in M.C.O.P.No.106 of 2013 on the file of the
Motor Accidents Claims Tribunal/Special Subordinate Judge No.II,
Villupuram.

For Appellant :: Mr.P.Paramasiva Doss

JUDGMENT

This appeal is directed against the impugned award passed
by the Motor Accident Claims Tribunal/Special Subordinate Judge,
Villupuram in M.C.O.P.No.106 of 2013 dated 13.2.2015 awarding a
compensation of Rs.5,29,398/- with interest at 7.5% per annum
from the date of petition till the date of payment.

2. Learned counsel appearing for the appellant-Transport
Corporation, assailing the impugned award, submitted that in the
accident that took place on 07.02.2010 at about 4.30 a.m., near
Viralimalai Arun Garden branch road on the Tiruchi-Madurai main
road, the first respondent/claimant has suffered multiple

injuries when the bus bearing Registration No.TN-32-N-2890 belonging to the appellant Corporation dashed against the rear side of the lorry belonging to the second respondent bearing Reg.No.TN-21-T-7979. Though the claimant has suffered only injuries, the Tribunal has erroneously awarded a huge sum of Rs.1,20,000/- towards permanent disability. The compensation of Rs.3,35,985/- awarded as loss of earning also needs to be reconsidered. On these two grounds, the learned counsel appearing for the appellant submitted that the award of compensation has to be reconsidered.

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

4. It is an admitted case that on 7.2.2010 at about 4.30 a.m., when the first respondent/claimant was on duty in the appellant Transport Corporation bus as a conductor, while the bus was on its way to Madurai, the accident took place near Viralimalai Arun Garden branch road on the Tiruchi-Madurai main road due to the negligent driving of the driver of the bus belonging to the appellant Corporation, as it hit the rear side of the lorry which was proceeding in the same direction, as a result the claimant suffered multiple injuries. Immediately, the claimant was admitted in a private hospital for treatment and underwent treatment from 7.2.2010 to 17.2.2010 as an inpatient and the claimant suffered fracture in his left thigh, for which he underwent surgery and a steel rod had been implanted in his left leg. As the claimant underwent surgery and a steel rod was implanted in his left leg, he was advised not to undertake any strenuous job. Therefore, the appellant Transport Corporation provided him an alternative job from 15.10.2012. However, he was given lesser salary, namely, a difference of Rs.6,000/- per month, when compared to the salary of a similar Conductor by name Murugavel, as he was getting Rs.19,000/- per month and that the claimant was getting only Rs.13,883/- per month during November, 2012. Considering this aspect, the Tribunal has fixed Rs.6,000/- per month as the loss of income from December 2012. However, while arriving at the aggregate sum, the Tribunal has wrongly calculated for 37 months from December 2012 to February 2014 by arriving at the sum of Rs.2,22,000/-. But the correct calculation should have been from December 2012 to February 2015 for 27 months in a sum of Rs.1,62,000/-. Accordingly, the award of the Tribunal is modified and a sum of Rs.1,62,000/- (27 x Rs.6,000) is awarded as the loss of income for the period from December 2012 to February 2015. As the claimant was not paid salary for the period from January 2012 to September 2012, a sum of Rs.1,13,985/- has been awarded towards loss of salary and totally a sum of Rs.2,75,985/- is awarded under the head of loss

of income, instead of Rs.3,35,985/- awarded by the Tribunal.

5. The other contention of the learned counsel appearing for the appellant that a sum of Rs.1,20,000/- awarded towards permanent disability is far from acceptance. The reason is that the disability certificate marked as Ex.C5 issued by the Medical Board clearly shows that the claimant has suffered 60% disability. Therefore, at the rate of Rs.2,000/- per percentage of disability, a sum of Rs.1,20,000/- has been correctly awarded by the Tribunal. Coming to the amounts awarded under the other heads, this Court is inclined to award a sum of Rs.60,000/- towards mental agony and suffering, a sum of Rs.20,000/- towards extra nourishment, a sum of Rs.10,000/- towards transport and a sum of Rs.10,000/- towards attendant charges considering the facts and circumstances of the case. In addition thereto, the claimant is also entitled to a sum of Rs.1,000/- towards damages to clothes and a sum of Rs.32,413/- towards medical expenses as ordered by the Tribunal. Therefore, the first respondent/claimant is entitled for the total compensation of Rs.5,29,398/- along with interest at the rate of 7.5% per annum from the date of petition till the date of payment. Accordingly, the civil miscellaneous appeal is dismissed. Consequently, M.P.No.1 of 2015 is also dismissed. No costs.

6. The appellant Transport Corporation is directed to deposit the entire award amount along with interest and costs, less the amount already deposited, to the credit of M.C.O.P.No.106 of 2013 on the file of the Motor Accident Claims Tribunal/Special Subordinate Judge, Villupuram, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, it is open to the first respondent/claimant to withdraw the same by moving appropriate application before the Tribunal.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal/
Special Subordinate Judge No.II
Villupuram

+1 cc to Mr.P.Paramasivadoss, Advocate, sr.64624

C.M.A.No.2621 of 2015

kgk co,
kra 09.03.2016