

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.4.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.Nos.1054 & 1055 of 2016
and
C.M.P Nos.7990 and 7991 of 2016

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Regional Office, Dharmapuri-5. Appellant in both CMAs.

Vs.

Saravanan
Rep.by his next friend
and wife, Arulmozhi Respondent in
CMA.No.1054/2016

Arumugam
Rep.by his next friend
and wife, GanthaRespondent in
CMA.No.1055/2016

Civil Miscellaneous Appeals filed under Section 173 of the
Motor Vehicles Act, 1988 against the judgment and decree dated
28.03.2013 made in M.C.O.P.Nos.1562 and 1563 of 2013 on the
file of the Motor Accident Claims Tribunal, Special Sub-Judge,
Krishnagiri.

For Appellant : Mr. D.Venkatachalam

C O M M O N J U D G M E N T

The Transport Corporation has come up with these appeals
challenging the negligence and quantum of compensation awarded
by the Tribunal by a common order in M.C.O.P.Nos. 1562 and 1563
of 2013, towards the same accident.

2. On 11.04.2010, when the injured Saravanan, claimant in
M.C.O.P No.1562 of 2013 was travelling in his motor cycle,
along with the other injured Arumugam, claimant in M.C.O.P
No.1563 of 2013, near Ramakka Lake, Mathikonpalayam Diversion
Road on Dharmapuri to Krishnagiri Main Road, the driver of the

appellant Transport Corporation bus bearing Registration No.TN 57 N 1346, came in a rash and negligent manner from the opposite side, dashed against the motor cycle. Due to the accident, both the claimants sustained grievous head injuries and other injuries all over the body. Hence, they filed two Claim Petitions separately, before the Tribunal seeking a sum of Rs.10,00,000/- each, as compensation. After analyzing the available oral and documentary evidence, the Tribunal awarded a sum of Rs.5,59,916/- in M.C.O.P No.1562/2013 and Rs.6,00,780/- in M.C.O.P No.1563/2013, as compensation, under the following heads:

Sl No	Heads	Amount in MCOP No. 1562/2013	Amount in MCOP No. 1563/2013
1	Loss of Earning Capacity	Rs.4,20,000.00	Rs.4,32,000.00
2	Pain and Sufferings	Rs. 25,000.00	Rs. 25,000.00
3	Partial loss of income	Rs. 30,000.00	Rs. 30,000.00
4	Medical Expenses	Rs. 34,916.00	Rs. 58,780.00
5	Future Medical Expenses	Rs. 25,000.00	Rs. 25,000.00
6	Transport & Extra Nourishment	Rs. 25,000.00	Rs. 30,000.00
	Total	Rs.5,59,916.00	Rs.6,00,780.00

3. Learned counsel appearing for the appellant/Transport Corporation would mainly contend that the Tribunal ought not to have entertained the petitions filed under Section 163A, since the annual income of the claimants has been stated as Rs.1,20,000/-. The Tribunal ought to have fixed contributory negligence against the driver of the two wheeler also since the accident has occurred only due to his rash and negligent driving. The Tribunal has erred in awarding compensation towards permanent disability, by adopting multiplier method in the absence of specific evidences to prove that the claimants have suffered disability, which would affect their future earning capacity. Challenging the higher compensation awarded to the claimants, these appeals have been filed.

4. It is found from the records that the Tribunal has passed the award based on the documentary evidences and depositions of the witnesses. It has been proved before the Tribunal that the driver of the appellant Corporation bus is responsible for the accident and hence the liability has been fixed on the appellant Transport Corporation. Considering the grievous head injuries sustained by both the claimants, the period of treatment in the hospital as in-patient and the age of

the claimants and their family, the Tribunal has granted a reasonable compensation.

5. This Court considered the submissions made by the learned counsel for the appellant and perused the materials available on record. Since the respondent/ claimant will not be prejudiced with the result of this Appeal, the main case itself is disposed of at the stage of admission itself, without serving notice to them.

6. A perusal of the records would show that the injured claimants Saravanan and Arumugam were aged 42 and 35 years at the time of accident and were self employed, earning a sum of Rs.10,000/- per month, each, respectively. However, in the absence of documentary evidences, the salary of the claimants have been fixed by the Tribunal as Rs.5000/- per month. Considering the serious gravity of injuries suffered by both the claimants, the period of treatment undergone by them and the necessity for future treatment, the Tribunal has fixed a fair and reasonable compensation. As evidenced before the Tribunal, due to the accident, the claimant Saravanan suffers sudden memory loss, headache and giddiness and the claimant Arumugam suffers sinus, headache and giddiness and are under continuous treatment and since this would certainly have an impact on their avocation, the Tribunal has rightly followed the multiplier method. Based on the above, the Tribunal has awarded a just and reasonable compensation, which does not warrant any interference.

7. In fine, the Civil Miscellaneous Appeals are dismissed, confirming the quantum of compensation and the rate of interest at 6% per annum awarded by the Tribunal. The appellant/Transport Corporation is directed to deposit the entire award amount, together with accrued interest, less the amount already deposited, to the credit of M.C.O.P.Nos.1562 and 1563 of 2013 on the file of the Motor Accidents Claims Tribunal, Special Sub Judge, Krishnagiri, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal shall pay compensation to the claimants in the form of crossed Account Payee Cheques, favouring only the claimants and it should not be issued in favour of any other person/Company. No costs. Consequently, the C.M.P. is closed.

-s/d-

Assistant Registrar(CSIV)

True Copy

Sub-Assistant Registrar

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To :

The Special Sub Judge
Motor Accidents Claims Tribunal,
Krishnagiri.

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and
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