



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A.(MD)No.1025 of 2016

Muniayyan

... Appellant / Petitioner

Vs.

The Managing Director,
Kumbakonam Division-I,
Tamil Nadu State Transport Corporation Ltd.,
Kumbakonam Town,
Thanjavur District.

... Respondent / Respondent

Prayer: The appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decreetal order made in M.C.O.P No.388 of 2012, dated 23.06.2016, by the learned Motor Accident Claims Tribunal/III Additional District and Sessions Judge, Thanjavur at Pattukkottai.

For Appellant : Mr.S.Deenadhayalan

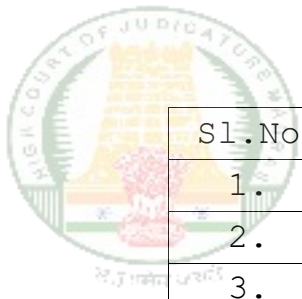
For respondent : Mr.D.Sivaraman

J U D G M E N T

Heard the learned counsel on either side.

2. The injured claimant has filed this appeal seeking enhanment of the compensation awarded to him. The claimant was a fisher man by profession. He was aged 49 years at the time of the accident. He was crossing the road on 29.02.2012 at about 02.00 P.M.. When the bus belonging to the respondent Corporation dashed against him, the appellant fell down and suffered injuries and ultimately had his right leg amputated below knee. The Tribunal fastened 50% negligence on the claimant.

3. I am of the view that this is not correct. In fact the claimant was only a pedestrain, who was crossing the road. Considering the facts and circumstances of the case, 40% negligence can only be fixed on him. Therefore, the impugned award has to be modified. That apart, multiplier method ought to have been adopted in this case. This is because, loss of limb below the knee would lead to 50% loss of earning capacity. Hence, the pecuniary loss by adopting multiplier 13, would come to Rs.6,500/2x12x13= Rs.5,07,000/-. The compensation payable to the claimants under other heads will have to be reworked as under:-



Sl.No	Heads	Amount in Rupees
1.	Pecuniary loss	Rs.5,07,000/-
2.	Pain and sufferings	Rs.1,00,000/-
3.	Attender charges	Rs.1,00,000/-
4.	Loss of amenities	Rs.1,00,000/-
5.	For Artificial Limb	Rs.1,00,000/-
6.	Loss of income for the period when the appellant was an inpatient	Rs.50,000/-
7.	Transportation and extra nourishment	Rs.43,000/-
	Total	Rs.10,00,000/-

4. Since the claimant has been fastened with 40% negligence, he is entitled to a compensation amount of Rs.6,00,000/-. Therefore, the compensation payable to the claimant is enhanced from Rs.2,05,000/- to Rs.6,00,000/-. The award dated 23.06.2016 in M.C.O.P No.388 of 2012 passed by the learned Motor Accident Claims Tribunal/III Additional District Judge, Thanjavur at Pattukkottai is modified accordingly.

5. The respondent Transport Corporation is directed to deposit the entire compensation amount of Rs.6,00,000/- (Rupees Six lakhs only) with interest at 7.5% per annum and cost from the date of petition till the date of realization within a period of twelve weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit the claimant is entitled to withdraw the entire amount by filing proper application before the Tribunal, less the amount already withdrawn by him, if any.

6. Accordingly, this Civil Miscellaneous Petition is allowed. No costs.

Sd/-
Assistant Registrar (Writs)

/True Copy/

Sub Assistant Registrar

To

1. The learned Motor Accident Claims Tribunal/
III Additional District Judge,
Thanjavur at Pattukkottai.

2. The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (Two Copies)



+1cc to M/S.D.Sivaraman, Advocate SR.No. 90482
+1cc to M/S.S.Deenadhayalan, Advocate SR.No. 90101

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C.M.A. (MD) No. 1025 of 2016
29.11.2017

KMI

JM/JC/SAR 3/29.01.2018/3P/6C