



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A(MD) No.122 of 2017

T.Suresh

... Appellant/Petitioner

vs.

1.Tamil Nadu State Transport
Corporation, Madurai.
Represented through its
Managing Director.

2.K.Paulchamy

...Respondents/Respondents

Prayer: This Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and award made in M.C.O.P. No.27 of 2001 dated 02.02.2005 on the file of Motor Accidents Claims Tribunal, Sub-Court, Padmanabhapuram.

For Appellant

:Mr.V.M.Balamohan Thambi

For R1

:Mr.P.Prabhakaran

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant against the Judgment and decree, dated 02.02.2005, made in M.C.O.P.No.27 of 2001, passed by the Motor Accident Claims Tribunal-cum-Sub-Court, Padmanabhapuram.

2.The appellant/claimant filed a claim petition in MCOP.No.27 of 2001 before the Motor Accident Claims Tribunal-cum-Sub Court, Padmanabhapuram, claiming a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) as compensation for the injuries sustained by him in the accident that took place on 11-07-2000, while travelling in the bus belonging to the first respondent/transport corporation bearing Registration No.TN-32-N-1201.

3.The first respondent opposed the claim petition denying the liability to pay the compensation.

<https://hcservices.ecourts.gov.in/hcservices/>

4.After Trial, the Tribunal held that accident took place only due to the rash and negligent driving of the driver of the bus



belonging to the first respondent. Considering the nature of the injuries and other circumstances with regard to the treatment taken by the appellant, the Tribunal awarded a total sum of Rs.2,67,623/- (Rupees Two Lakhs Sixtyseven Thousand Six Hundred and Twentythree only) on various heads.

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5. Aggrieved against the said award, the first respondent filed C.M.A.(MD)No.253 of 2006. This Court, by the order, dated 28.03.2014 dismissed the said appeal. The present appeal has been filed by the appellant/claimant for enhancement of compensation.

6. The Tribunal has granted a sum of Rs.1,89,000/- (Rupees One Lakh and Eighty Nine thousand only) towards the injuries suffered by the appellant by adopting the multiplier. The Notional income fixed by the Tribunal and procedure adopted by the Tribunal is proper and there is no reason to modify the said award under this head.

7. The learned Counsel appearing for appellant submitted that the appellant was admitted in the hospital from 11.07.2000 to 31.08.2000. The appellant has not filed any documents to substantiate his claim. The Tribunal considering the 70% of permanent disability, granted a sum of Rs.1,89,000/- (Rupees One Lakh Eighty Nine Thousand only). The Tribunal has not granted any amount to attendant charges and pain and sufferings.

8. From the materials on available record, it is seen that the appellant suffered multiple injuries and his left leg was amputated and the Tribunal has not awarded any amount for attendant charges and pain and suffering. Therefore, this Court awards a sum of Rs.20,000/- (Twenty Thousand only) towards pain and suffering and for a sum of Rs.5,000/- (Rupees Five Thousand only) towards attendant charges.

9. The rate of interest awarded by the Tribunal at 9% per annum is reduced to 7.5% per annum.

10. Accordingly, the appellant-claimant is entitled to a sum of **Rs.2,92,623/-** (Rupees Two Lakhs Ninetytwo Thousand and Six Hundred and Twenty three only) along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs.

11. In view of the settled position of law, this Court modifies the award of the Tribunal by enhancing the compensation, as below:-

S.No	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted

1.	For permanent disability	1,89,000	1,89,000	confirmed
2.	For Injuries	5,000	5,000	confirmed
3.	For Medical Expenses	73,623	73,623	confirmed
4.	For pain and suffering	-	20,000	awarded
5.	For attendant charges	-	5,000	awarded
	Total	Rs.2,67,623	Rs.2,92,623	By enhancing a sum of Rs.25,000/-

12. In the result,

(i) This Civil Miscellaneous Appeal is partly allowed, enhancing the award of the Tribunal from Rs.2,67,623/- (Rupees Two lakhs Sixtyseven Thousand Six hundred and Twentythree only) to a sum of **Rs.2,92,623/-** (Rupees Two Lakhs Ninetytwo Thousand six hundred and twentythree only) along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and costs;

(ii) The appellant/claimant is directed to submit his Savings Bank Account Detail along with the copy of his passbook to the Tribunal **forthwith**;

(iii) The first respondent-Transport Corporation is directed to deposit the entire award amount along with accrued interest and costs, less the amount deposited, if any, to the credit of M.C.O.P.No.27 of 2001, on the file of the Motor Accident Claims Tribunal (Sub Court)Padmanabhapuram, within a period of **eight weeks** from the date of receipt of a copy of this judgment;

(iv) On such deposit, the Tribunal is directed to transfer the entire award amount along with accrued interest and costs directly to the Personal Savings Bank Account Number of the appellant-claimant, through RTGS/NEFT system, after getting his Account Details, within a period of **two weeks thereafter**;

(v) The appellant-claimant is directed to pay the additional Court Fees, if any, within a period of **two weeks** from the date of receipt of a copy of this judgment; and



(vi) In the facts and circumstances of the case, there shall be no order as to costs.

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Sd/-

Assistant Registrar(CS I)

/True Copy/

Sub Assistant Registrar

To

The Motor Accident Claims Tribunal-cum-
Subordinate Judge, Padmanabhapuram.

+1cc to Mr.V.M.BalaMohan Thampi, Advocate Sr.No.14841

+1cc to Mr.P.Prabhakaran, Advocate Sr.No.14858

mrn/am

sm:SV-MMS:17.4.2017:4p/4c

C.M.A(MD) No.122 of 2017
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