



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A. (MD) No.190 of 2017

Sathishkumar

... Appellant/Petitioner

Vs.

1.The Tamil Nadu State Transport Corporation,
Rep by its,
Managing Director,
Kumbakonam,
Thanjavur District.

2.Sundar

... Respondents/Respondents

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree, dated 04.01.2016 made in M.C.O.P.No.218 of 2014 on the file of Motor Accidents Claims Tribunal, Principal Sub Court, Kumbakonam, Thanjavur.

For Appellant : Mr. S. Siva Thilakar
For R1 : Mr.V. Sriram

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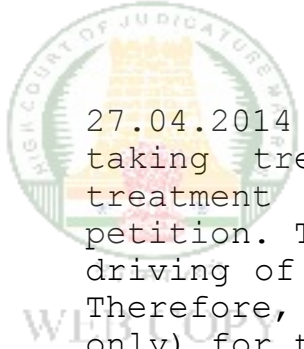
JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant-claimant against the award, dated 04.01.2016 made in M.C.O.P.No.218 of 2014 passed by the Motor Accidents Claims Tribunal - Principal Sub Court, Kumbakonam, Thanjavur.

2.The appellant/claimant filed a claim petition in M.C.O.P.No.218 of 2014 before the Motor Accidents Claims Tribunal - Principal Sub Court, Kumbakonam, Thanjavur, claiming compensation of Rs.4,00,000/- (Rupees Four Lakhs only) for the injuries suffered by him in the accident that occurred on 27.04.2014.

Facts of the Case:

3. According to the appellant/claimant, while he was driving in a TVS Centra Motorcycle bearing Registration No.PY-02-C-6160 belonging to the second respondent, the driver of the bus belonging to the first respondent bearing Registration No.TN 49-N 1508 drove the same in a rash and negligent manner and dashed against the vehicle, in which, the appellant/claimant was riding and caused accident. The appellant/claimant sustained multiple injuries. He was admitted in the Government Hospital, Kumbakonam and subsequently, he was taking treatment at Thanjavur Medical College Hospital from



27.04.2014 to 07.05.2014 as inpatient. The appellant/claimant was taking treatment as Inpatient till 07.05.2014 and was taking treatment from private doctors till the filing of the claim petition. The accident took place only due to the rash and negligent driving of the driver of the bus belonging to the first respondent. Therefore, he claimed a sum of Rs.4,00,000/- (Rupees Four Lakhs only) for the injuries sustained by him.

4. The first respondent filed the counter statement and denied all the averments made in the claim petition. According to the first respondent, the accident did not occur due to the rash and negligent driving of the driver of the first respondent, but only due to the rash and negligent driving on the part of the appellant/claimant.

5. Before the Tribunal, the appellant/claimant examined himself as P.W.1 and one Dr.Vijayakumaran was examined as P.W.2 and marked six documents as Exs.P.1 to P.6. The first respondent examined the driver of the bus as R.W.1 and did not mark any documents.

6. The second respondent remained ex-parte before the Tribunal.

7. The Tribunal, considering the pleadings, oral and documentary evidence and arguments of the learned Counsel for the appellant/claimant, came to the conclusion that the accident occurred only due to the rash and negligent driving of the driver of the bus belonging to the appellant/claimant and considering the nature of the injuries awarded a sum of Rs.1,12,500/- as compensation.

8. Aggrieved by the said award, dated 04.01.2016, the appellant/claimant has filed the present appeal for enhancement of compensation.

9. The learned Counsel for the appellant/claimant contended that the compensation awarded by the Tribunal for the injuries sustained by the appellant/claimant is very meagre and appellant/claimant is entitled to a sum of Rs.3,000/- towards 1% permanent disability. The amounts awarded in the other heads are very meagre and therefore, he prays for enhancement of the compensation.

10. On the other hand, the learned Counsel for the first respondent/Transport Corporation submitted that the Tribunal has considered all the materials on record and the nature of the injuries suffered by the appellant/claimant in proper perspective and awarded the just compensation. Further, he submitted that there is no reason to enhance the compensation awarded by the Tribunal and that the appellant/claimant has suffered 35% of partial permanent disability and a sum of Rs.2,500/- towards 1% permanent disability awarded by the Tribunal is in consonance with the guidelines issued in various judgments of this Court and there is no reason to modify the award amount. Moreover, he contended that considering the nature of the injuries sustained by the appellant/claimant and the



treatment taken by him, the Tribunal awarded a just compensation in the other heads and hence, he prays for the dismissal of this Civil Miscellaneous Appeal.

11. I have heard the learned Counsel appearing for the appellant/claimant and the learned Counsel appearing for the first respondent and perused all the materials available on record.

12. From the materials available on record, it is seen that the appellant/claimant sustained injuries and he has produced the certificate that he suffered 35% partial permanent disability. The Tribunal took only a sum of Rs.2,500/- (Rupees Two Thousand Five Hundred Only) towards 1% permanent disability and this Court is of the view that a sum of Rs.3,000/- (Rupees Three Thousand Only) should be taken for 1% permanent disability as per the Judgments of the Honourable Supreme Court and this Court. Accordingly, the appellant-claimant is entitled to a sum of **Rs.1,05,000/-** (Rupees One Lakh and Five Thousand only) (Rs.3,000 X 35%) towards permanent disability.

13. A sum of **Rs.10,000/-** (Rupees Ten Thousand only) was rightly awarded by the Tribunal towards pain and sufferings and the same is confirmed.

14. Considering the fact that the petitioner was taking treatment as inpatient from 27.04.2014 to 07.05.2014, a sum of Rs.5,000/- (Rupees five thousand only) awarded by the Tribunal towards attendant charges, which is on the lower side, is enhanced to a sum of **Rs.10,000/-** (Rupees Ten Thousand Only).

15. Further, a sum of **Rs.5,000/-** (Rupees Five Thousand only) was awarded by the Tribunal towards Transportation and this Court confirms the same.

16. Similarly, a sum of Rs.5,000/- (Rupees Five Thousand Only) was awarded towards extra nourishment and this Court finds that the same is very meagre and therefore, a sum of **Rs.10,000/-** (Rupees Ten Thousand Only) is awarded by this Court.

17. The rate of interest awarded by the Tribunal at 7.5% per annum is confirmed.

18. Accordingly, the appellant-claimant is entitled to a sum of **Rs.1,40,000/-** (Rupees one lakh and Forty Thousand only) along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs.

19. In the result,

(i) This Civil Miscellaneous Appeal is partly allowed, enhancing the award of the Tribunal from **Rs.1,12,500/-** (Rupees One Lakh Twelve Thousand and five hundred only) to a sum of **Rs.1,40,000/-** (Rupees One Lakhs and Forty Thousand only) along with



interest at the rate of 7.% per annum from the date of petition till date of realisation and proportionate 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.218 of 2014 on the file of the Motor Accidents Claims Tribunal, Principal Sub Court, Kumbakonam, Thanjavur, 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.

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

To

1.The Motor Accidents Claims Tribunal,
Principal Sub Court,
Kumbakonam, Thanjavur.

+1 CC TO MR.S.SIVA THILAKAR,ADVOCATE,SR NO.14025

+1 CC TO MR.D.SIVARAMAN,ADVOCATE ,SR NO.14287

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MAS-RL/RR:28.03.2017:4P-4C

C.M.A. (MD) No.190 of 2017

13.03.2017