



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2017

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THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A. (MD) No.41 of 2017

and

C.M.P. (MD) No.351 of 2017

The State Transport Corporation Limited,
Vallioor Depot,
Nagercoil.

.. Appellant / Respondent

Vs.

Chinnasamy, S/o. Chinnu

.. Respondent / Petitioner

Prayer:- Appeal filed under Section 173 of the Motor Vehicles Act, against the award and decree, dated 24.04.2015 passed in M.C.O.P. No.1327 of 2010 by the learned III Additional Subordinate Court [Motor Accident Claims Tribunal], Madurai.

For Appellant

: Mr.P.Prabhakaran

For Respondent

: Mr.S.Karthik

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant-Tamil Nadu State Transport Corporation against the award of Rs.15,73,676/- for the injuries sustained by the respondent/claimant, namely, Chinnasamy, aged 28 years, working as a Cook in Meenakshi Mission Hospital, Madurai, allegedly earning Rs.6,000/- per month, in the accident occurred on 11.08.2009 at 6.45 a.m., when he was riding his two wheeler bearing Registration No.TN-57-P-0353 at Madurai-Trichy National Highways, near Moongil Kanmoi, Bye-pass Road, a bus bearing Registration No.TN-72-1166 belonging to the appellant, was driven by its driver in a rash and negligent manner and dashed against the two wheeler, in which, the first respondent/claimant was riding and sustained injuries. Therefore, the claim petition in M.C.O.P.No.1327 of 2010 was filed.



2. On contest, the Tribunal, considering the oral and documentary evidence let in, found that the accident occurred only due to the rash and negligent driving of the driver of the appellant-Transport Corporation bus and awarded the compensation of Rs.15,73,676/- along with interest at 7.5% p.a. from the date of claim petition till the date of realisation. Aggrieved over the same, the present Civil Miscellaneous Appeal has been filed.

3. Heard Mr.P.Prabhakaran, learned Counsel for the appellant-Transport Corporation and Mr.S.Karthik, learned Counsel for the respondent/claimant and perused the materials available on record.

4. The Tribunal, based on the overall evidence, came to the conclusion that the accident occurred only due to the rash and negligent driving of the driver of the appellant-Transport Corporation bus and therefore, fastened the liability on the appellant-Transport Corporation to pay the compensation. Hence, the said finding based on evidence cannot be interfered with.

5. With regard to the compensation, the respondent/claimant deposed that he was working as a Cook in Meenakshi Mission Hospital, Madurai and to prove the same, he has marked Ex.P.4 - Salary Certificate, issued by the Employer. However, the Author of Ex.P.4 has not been examined before the Tribunal as a witness. Hence, a sum of Rs.6,000/- fixed by the Tribunal towards monthly income of the respondent/claimant, relying upon Ex.P4 is not correct. However, the notional income of Rs.4,500/- is fixed as monthly income of the respondent/claimant. At the time of accident, the age of the claimant was 28 years. As per the judgment of the Hon'ble Apex Court in **Sarla Verma v. Delhi Transport Corporation** reported in **2009 (2) TN MAC 1 (SC)**, the correct multiplier is '17' and hence, the permanent disability compensation is modified as follows:-

$$\text{Rs.4,500} \times 12 \times 17 \times 100/100 = \text{Rs.9,18,000/-}$$

In all other respects, the award of the Tribunal is confirmed. The rate of interest awarded by the Tribunal at 7.5% per annum remains unaltered.

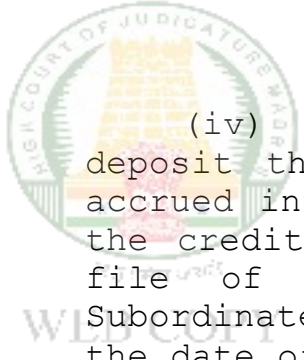
6. Accordingly, the respondent is entitled to modified compensation of **Rs.11,95,676/-** along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs.

7. In the result,

(i) This Civil Miscellaneous Appeal is partly allowed reducing the award of the Tribunal from Rs.15,73,676/- to a sum of **Rs.11,95,676/-**. No costs. Consequently, connected miscellaneous petition is closed.;

(ii) The respondent/claimant is entitled to the said compensation;

(iii) The respondent/claimant is directed to submit his Savings Bank Account Details along with the copies of his passbook to the Tribunal **forthwith**;



(iv) The appellant-Transport Corporation is directed to deposit the award amount now modified by this Court along with accrued interest and costs, less the amount deposited, if any, to the credit of M.C.O.P.No.1327 of 2010 on the file of the on the file of the Motor Accident Claims Tribunal/III Additional Subordinate Court, Madurai, within a period of **eight weeks** from the date of receipt of a copy of this judgment; and

(v) On such deposit, the Tribunal is directed to transfer the said amount of the respondent/claimant directly to their Personal Savings Bank Account Numbers, through RTGS/NEFT system, after getting their Account Details, within a period of **two weeks thereafter**.

Sd/-

ASSISTANT REGISTRAR (Co)

/TRUE COPY/

SUB ASSISTANT REGISTRAR

To

1.The III Additional Subordinate Judge,
Motor Accident Claims Tribunal,
Madurai.

2.The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC TO MR.S.KARTHIK,ADVOCATE,SR NO.14945

+1 CC TO MR.P.PRABHAKARAN,ADVOCATE, SR NO.14857

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MAS/SV-MMS:SAR4:3P-5C:09.05.2017

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and

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