

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 12.12.2016

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

WEB COPY

C.M.A(MD)No.1430 of 2016**and****C.M.P(MD)No.11902 of 2016**

The Managing Director,
Tamil Nadu State Transport Corporation,
Kumbakonam Division,
Kumbakonam Town,
Thanjavur.

... Appellant/Respondent

Vs.

1.Mahendran (Died)
2.Vaidurium
3.Parkavi
4.Anusiya
5.Minor Rithigha

... 1st Respondent/Claimant

(5th Respondent is represented
by her mother the 2nd respondent)...Respondents 2 to 5/LRs of
deceased 1st Respondent

(Respondents 2 to 5 are brought on
record as Lrs of sole Respondent
vide order dated 24.10.2016
made in M.P.(MD) No.3 of 2015
by SMSJ)

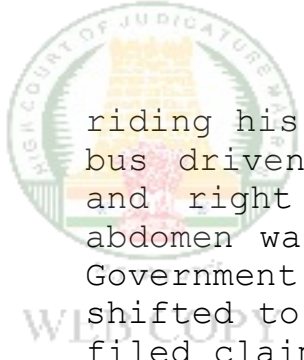
PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act,
1988, against the judgment and decree passed in M.C.O.P.No.85 of
2010, dated 10.10.2012 on the file of the Motor Accident Claims
Tribunal cum Sub Court, Pattukottai.

For Appellant : Mr.P.Prabhakaran

For Respondents 2 to 5 : Mr.S.Deenadhayalan

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the
appellant-Transport Corporation against the award of Rs.4,32,000/-
(Rupees Four Lakhs Thirty two Thousand only) to the 1st
respondent /claimant as compensation for the injury sustained by
Mahendran in the accident occurred on 14.04.2009, when he was



riding his motor cycle, which was hit by the Transport Corporation bus driven rash and negligently. In the accident the skull bone and right ankle of the said Mahendran got fractured and his abdomen was also severely affected. Therefore, he was admitted in Government Hospital, Pattukottai for first aid and thereafter, shifted to Rohini Hospital, Tanjore. After treatment, the claimant filed claim petition.

2. On contest, the Tribunal found that the accident occurred because of the rash and negligent driving of the driver of the Bus, belonging to the appellant Transport Corporation and awarded a sum of Rs.4,32,000/- (Rupees Four Lakhs Thirty two Thousand only). Challenging the same, the present appeal.

3. The only contention, which has been raised by the learned counsel for the petitioner is that the amount awarded by the Tribunal is on the higher side, especially, Rs.3,37,000/- awarded towards medical expenses and Rs.50,000/- awarded towards disability, when the disability was determined at 25% and therefore, it requires to be reduced.

4. However, the learned counsel for the petitioner would support the award.

5. A perusal of the award would show that the claimant sustained fracture on skull bone and right ankle. Therefore, he took treatment in Rohini Hospital as proved by Exs.P.4 and 6. Thereafter, he was shifted to Maruthi Hospital as proved by Ex.P.7. Subsequently, he was admitted in Right Hospital as proved by Ex.P.8 and finally, he was admitted at K.M.C. Hospital Trichy as evidenced from Exs.P.9 and P.10. Ex.P.11 is medical prescriptions, Ex.P.12 is the CT Scan Report, Ex.P.13 is the E.C.G. Report and Exs.P.14, 18 to 21 are medical bills for medical expenses. All the Medical records, especially, Ex.P.17 Disability Certificate and P.W.2 Doctor evidence would prove that the claimant sustained two major fractures and because of that his style of walking got changed and he cannot stand firmly and moreover he was suffering due to memory loss and pain. Therefore, the Tribunal rightly determined the disability at 25%. Therefore, the said determination of disability at 25% cannot be set aside. At the rate of Rs.2,000/- for each percent of disability, the Tribunal rightly awarded a sum of Rs.50,000/- towards disability. The Tribunal also awarded a sum of Rs.15,000/- towards pain and sufferings, Rs.10,000/- towards transportation charges and Rs.5,000/- towards extra nourishment. They are reasonable and the same are confirmed. As per the medical bills, which has been exhibited, the Tribunal rightly awarded Rs.3,37,000/-. Totally, Rs.4,32,000/- awarded by the Tribunal is just compensation and the same cannot be interfered with and the same is confirmed.



6. After filing of the appeal, the respondent/claimant passed away, leaving behind his wife and three daughters and they are impleaded as respondents 2 to 5 by order of this Court dated 24.10.2016 made in M.P.(MD) No.3 of 2015. In the award amount the minor 5th respondent is entitled to 40% and respondents 2 to 4 are each entitled to 20%.

7. Therefore, the Civil Miscellaneous Appeal fails and the same is dismissed. The appellant-Transport Corporation is directed to transfer the award amount, less the amount already deposited, if any, through RTGS/NEFT to the personal Savings Bank Account Number of the respondents 2 to 4, after getting the Account Details from the claimants by the officials of the appellant-Transport Corporation, on or before **09.02.2017**; as far as the fifth respondent/minor amount is concerned, it shall be deposited in the interest bearing fixed deposit in any one of the Nationalized Bank till the minor attains majority and till such time her mother/2nd respondent is permitted to withdraw the interest accrued once in three months directly from the bank and in the facts and circumstances of the case, there will be no order as to costs. Consequently, the connected civil miscellaneous petition is closed.

List the matters on **10.02.2017** for reporting compliance.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar

To

The Motor Accident Claims Tribunal cum
The Subordinate Judge,
Pattukottai.

+1 cc to MR.P.PRABHAKARAN, Advocate SR.No.80571

+1 cc to MR.S.DEENADHAYALAN, Advocate Sr.No.80794

C.M.A(MD) No.1430 of 2016
and

C.M.P(MD) No.11902 of 2016
12.12.2016

SMA/PV/SAR-I/19.12.2016:3P/4C