

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

Dated : 03.08.2017

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU**C.M.A.No.691 of 2017****and****C.M.P. (MD)No.7184 of 2017**

The Managing Director,
Tamil Nadu State Transport Corporation,
Having Corporation at No.46,
Railway Station Road,
Periyamilaguparai,
Trichy District.

.. Appellant / Respondent

Vs.

Sundaramoorthy

.. Respondent / Petitioner

Prayer:- Appeal filed under Section 173 of the Motor Vehicles Act, against the Judgment and award made in M.C.O.P.No.177 of 2013 dated 03.02.2016 on the file of Motor Accidents Claims Tribunal, Special District Court, Thanjavur.

For Appellant : Mr.D.Sivaraman

For Respondent : Mr.N.Sudhagar Nagaraj

J U D G M E N T

This Civil Miscellaneous Appeal is directed against the judgment dated 03.02.2016 passed in M.C.O.P.No.177 of 2013 by the Motor Accidents Claims Tribunal, Special District Court, Thanjavur.

2.Before the Tribunal, the appellant herein is the respondent and the respondent herein is the petitioner.

3. The case of the claimant in the petition is briefly as follows:

On 12.01.2013 at 8.30 p.m., the petitioner was purchasing mil from Keelakottaiyur Bazaar and walking in front of the house of Jayaraman in Kukmbakonam - Swamimalai main road from east to west direction by keeping left side of the road, at that time, the respondent drove the Government bus bearing Registration No.TN 45 N 2013 in a rash and negligent manner and hit the petitioner and he sustained grievous injuries. He was taken to Kumbakonam Government Hospital and then taken to Thanjavur medical college hospital for treatment. The accident was happened only due to the rash and



negligent driving of the respondent. Hence, the petitioner filed a claim petition before the Tribunal claiming a sum of Rs.5,00,000/- as compensation.

4. Before the Tribunal on the side of the petitioners, P.Ws.1 to 3 were examined and Exs.P1 to P16 were marked and Ex.X1-Xerox copy of Medical file of the petitioner. On the side of the respondent, no witness was examined and no document was filed.

5. On consideration of the evidence available on record, the Tribunal has awarded a sum of Rs.2,48,900/- with interest at the rate of 9%. Challenging this award, the present appeal has been filed by the Insurance Company.

6. Heard the learned counsel for the petitioner and the learned counsel for the respondent and also perused the materials available on record.

7. At the outset, the learned counsel for the appellant fairly conceded that he is not disputing the accident but he is disputing only the quantum awarded by the Tribunal. So, the finding of the Tribunal regarding rash and negligent driving of the driver of the bus is confirmed.

8. The learned counsel for the appellant argued that the Tribunal has awarded higher amount on various heads and especially, a sum of Rs.40,000/- awarded by the Tribunal towards loss of happiness and expectation is uncalled for and without any rhyme or reason and therefore, the same is liable to be set aside. He would further submit that the interest awarded by the Tribunal at rate of 9% is excessive and exorbitant and hence, the same may also be modified.

9. Considering the submissions made by the learned counsel for the appellant, this Court is of the view that the Tribunal has awarded a sum of Rs.40,000/- towards loss of happiness and expectation, which is not correct and so it is rejected. Admittedly, the Tribunal has not awarded any amount for 'loss of amenities' and hence, a sum of Rs.20,000/- is hereby awarded towards 'loss of amenities'. The interest is hereby modified as 7.5% p.a.

10. Accordingly, the claimant is entitled to the modified compensation of Rs.2,28,900/-. The appellant / Transport Corporation is directed to deposit the entire award amount, less the amount already deposited, with accrued interest at the rate of 7.5% per annum, from the date of petition till the date of realization, within a period of two weeks from the date of receipt of a copy of this order, if not already deposited. On such deposit being made, the claimant is entitled to withdraw the award amount with proportionate interest and costs, without filing any formal petition before the court below.



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11.This Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1.The Special District Judge,
Motor Accidents Claims Tribunal,
Special District Court, Thanjavur.

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

+1cc to Mr.N.SUDHAGAR NAGARAJ Advocate in SR. No.70110

+1cc to Mr.D.SIVARAMAN Advocate in SR.No.70061

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MAS/JC/SAR.1/21.08.2017/3P-5C

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