



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2017

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) .No.315 of 2016

and

C.M.P. (MD) .No.4409 of 2016

The Divisional Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Collector's Office Road,
Periyamilaguparai,
Tiruchirappalli.

... Appellant/Respondent

Vs.

R.Balaji

... Respondent/Petitioner

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the judgment and decree made in M.C.O.P.No.3182 of 2013, dated 19.08.2015, on the file of the Motor Accident Claims Tribunal/Special Sub Court, Tiruchirappalli.

For Appellant	: Mr.P.Prabhakaran
For Respondent	: Mr.N.Sudhagar Nagaraj

JUDGMENT

Heard the learned counsel on either side.

2.The Transport Corporation has filed this appeal questioning the impugned award on the ground of quantum. The claimant is one Balaji. He was working as a driver. He sustained injuries in an accident that took place on 02.04.2013. The bus belonging to the appellant Corporation was the offending vehicle. The Tribunal rightly found that the accident took place on account of the rash and negligent driving of the driver employed by the appellant Corporation. After fastening liability on the appellant Corporation, the Tribunal also found that the injury suffered by the claimant was only in the nature of fracture and that there is nothing on record to show that it is the case of functional disability. This finding is specifically recorded in paragraph 27 of the impugned award.



3. After recording such a finding that there is no functional disability, the Tribunal chose to adopt the multiplier method. The doctor has assessed his disability at 54%. This is clearly erroneous. Therefore, the award passed by the Tribunal has to be modified. The compensation payable to the claimant will have to be reworked as under:-

S1.No	Heads	Amount in Rupees
1.	For disability 54% (54% X Rs.3000)	Rs. 1,62,000/-
2.	For medical bills	Rs. 2,68,000/-
3.	For transportation	Rs. 10,000/-
4.	For extra nourishment	Rs. 10,000/-
5.	For attender charges	Rs. 5,000/-
6.	For loss of income	Rs. 30,000/-
7.	For pain and suffering	Rs. 30,000/-
	Total	Rs. 5,15,000/-

4. The compensation awarded by the Tribunal is reduced from Rs.5,93,146/- to Rs.5,15,000/-. Therefore, the award dated 19.08.2015, made in M.C.O.P.No.3182 of 2013, on the file of the Motor Accident Claims Tribunal/Special Sub Court, Tiruchirappalli, is modified accordingly.

5. The appellant is directed to deposit the compensation amount of Rs.5,15,000/- with interest at the rate of 7.5% per annum with costs, from the date of petition till the date of realization, within a period of eight weeks from the date of receipt of a copy of this judgment, less the amount already deposited, if any. On such deposit, the claimant/respondent is entitled to withdraw the same, less the amount already withdrawn by him, if any, by filing proper application before the Tribunal.

6. This Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar



To

1. The Special Subordinate Judge,
Special Sub Court,
Motor Accident Claims Tribunal,
Tiruchirappalli.

2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.P.PRABHAKARAN, ADVOCATE IN SR No. 91005

+ 1 CC TO Mr.N.SUDHAGAR NAGARAJ, ADVOCATE IN SR No. 91528

TSG/LS

TE/SV-MMS/SAR-3 : 28/02/2018 : 3P/6C

C.M.A. (MD) .No.315 of 2016 and
C.M.P. (MD) .No.4409 of 2016
05.12.2017