



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.11.2017

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.360 of 2015

and

M.P. (MD) .No.3 of 2015

1. M/s.Tamil Nadu State Transport Corporation Limited,
Represented by its Managing Director,
27, Railway Station New Road,
Periyamilaguparai,
Trichy. ... Original Appellant
2. N.Sundararaj ... Transposed Appellant

Vs

State Express Transport Corporation Limited,
Represented by its Managing Director,
Pallavan Salai, Chennai. (Suo motu impleaded)
(Sole Respondent as 2nd Appellant and SETC has impleaded as Suo Motu, in this appeal as Sole Respondent, as per the order of this Court dated 13.10.2017, made in C.M.A. (MD) .No.360/2015)
... Suo motu impleaded/Respondent

Prayer: This Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and award dated 14.02.2014 made in M.C.O.P.No.831 of 2012 on the file of the Motor Accidents Claims Tribunal/ IV Additional Sub Judge, Madurai.

For Appellants	: Mr.S.J.Chakravathy
For Respondent	: Mr.P.Prabakaran

JUDGMENT

Heard the learned counsel on either side.

2. This appeal was originally filed by Tamil Nadu State Transport Corporation, Trichy, questioning, the award dated 14.02.2014, made in M.C.O.P.No.831 of 2012, on the file of the Motor

Accidents Claims Tribunal/ IV Additional Sub Judge, Madurai.

3.The claimant was one N.Sundarraaj. He was working as a driver in Tamil Nadu State Express Transport Corporation bus bearing registration No.TN-01-N-7072 plying from Chennai to Madurai. The bus got involved in an accident with another bus belonging to Tamil Nadu State Transport Corporation. In the ensuing accident, the bus driven by the claimant dashed against the Tamil Nadu State Transport Corporation bus. The claimant suffered multiple fractures and his leg also got amputated below knee. The claimant filed the said claim petition before the Motor Accidents Claims Tribunal which awarded a sum of Rs.11,54,171/- with interest. Questioning the same, Tamil Nadu State Transport Corporation Limited has filed this appeal.

4.The primary contention raised by the Tamil Nadu State Transport Corporation Limited was that the claimant was himself the tortfeasor and therefore the question of Tamil Nadu State Transport Corporation Limited being fastened with liability will not arise. In fact out of the said accident, a few other claims were filed and in those claims, the employer of the claimant herein, had admitted that it was the claimant herein who was at fault and settled the claims also. That apart the evidence on record also clearly established that the claimant was at fault and therefore he could not make a claim for damages against Tamil Nadu State Transport Corporation Limited.

5.In that view of the matter, the award dated 14.02.2014, made in M.C.O.P.No.831 of 2012, on the file of the Motor Accidents Claims Tribunal/ IV Additional Sub Judge, Madurai was set aside. However, this Court could not permit the matters to rest there. It is obvious that the claimant suffered injuries in course of his employment. If he had taken out a claim before the authority constituted under the workman's Compensation Act, he would have certainly got compensation. Therefore, even while allowing the appeal filed by Tamil Nadu State Transport Corporation Limited, this Court transposed the claimant who was the respondent in this appeal as an appellant. His employer namely Tamil Nadu State Express Transport Corporation Limited was Suo Motu impleaded as a respondent in this appeal. After such transposition notice was sent to the employer/respondent, after hearing the employer/respondent herein, this Court decided to apply the formula laid down in the Employee's Compensation Act, 1923.

6.This is a case of injury. Therefore, only 60% of the income earned by the claimant will have to be taken into account. The claimant was aged 57 years. Therefore, the relevant factor would be 128.33. Since the amputation below knee had occurred in this case, it must be taken that the claimant suffered 50% disability. Therefore, applying the relevant formula, the compensation payable to the claimant would be Rs.8,14,176/-. The claimant would be entitled to the said compensation together with interest at 12%



interest per annum, to be computed from 30 days after the date of the accident. The claimant had spent Rs.61,000/- for his treatment. The said amount also will have to be added. Thus, the claimant is entitled to a sum of Rs.8,75,176/- (rounded off to Rs.8,75,170/-), as compensation.

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7.The respondent is directed to deposit the award amount of Rs.8,75,170/- with 12% interest and costs to the credit of M.C.O.P.No.831 of 2012, on the file of the Motor Accidents Claims Tribunal/ IV Additional Sub Judge, Madurai, within a period of eight weeks from the date of receipt of a copy of this judgment, less the amount already deposited. The original appellant/Tamil Nadu State Transport Corporation, Trichy, had already deposited a sum of Rs.10,00,000/- as per the order of this Court in M.P.(MD).No.3 of 2015 in C.M.A.(MD).No.360 of 2015. The original appellant is permitted to withdraw the remaining amount, if any. On such deposit, the claimant is entitled to withdraw the compensation amount, less the amount already withdrawn by him, if any, by filing proper application before the Tribunal.

8.This Civil Miscellaneous Appeal is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The IV Additional Subordinate Judge,
Motor Accidents Claims Tribunal,
Madurai.

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. 89375

+ 1 CC TO Mr.S.J.CHAKKARAVARTHY, ADVOCATE IN SR No. 89230

TSG

TE/SV-MMS/SAR-2 : 13/03/2018 : 3P/6C

C.M.A.(MD)No.360 of 2015 and
M.P.(MD).No.3 of 2015
24.11.2017