



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.10.2017

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.472 of 2015

and

M.P. (MD) No.1 of 2015

The Managing Director,
Tamil Nadu State Express Transport
Corporation Limited,
Thiruvalluvar House,
Pallavansalai, Chennai - 600 002. ... Appellant/1st Respondent

Vs.

1.Thirumalainambi ... 1st Respondent/Petitioner
2.Moorthy

3.Shri Ram General Insurance
Company Limited,
through its Branch Manager,
Office at Floor No.25, B2/18,
SRC Complex,
North Block, S.N.High Road,
Thirunelveli. ... Respondents 2 & 3/
Respondents 2 & 3

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and decree dated 26.06.2014 passed in M.C.O.P.No.834 of 2013 on the file of the Motor Accidents Claim Tribunal/I Additional District Court, Tirunelveli.

For Appellant : Mr.P.Prabhakaran

For Respondents 1 & 2 : No appearance

For Respondent 3 : Mr.V.Sakthivel

JUDGMENT

The Tamil Nadu State Transport Corporation is on appeal challenging the award dated 26.06.2014 passed in M.C.O.P.No.834 of 2013 on the file of the Motor Accidents Claim Tribunal/I Additional District Court, Tirunelveli.

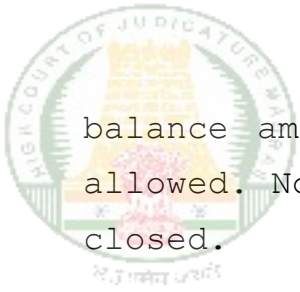


2.The first respondent herein is the claimant. Though, it is a case of collision involving two vehicles, the Tribunal has fixed the entire negligence on the driver employed by the appellant corporation. I do not wish to interfere with the said finding. However, as regards the quantum, the matter calls for closure scrutiny.

3.According to the claim petition, the claimant suffered fracture on her left hand. The doctor who gave evidence on her behalf had assessed her disability at 35.8% as partial and permanent. But, it has not been established that the claimant had suffered functional disability on that score. The Tribunal could have resorted to multiplier method only in the case of functional disability having been caused as a result of the injury in question. That is clearly not a case here. Therefore, the Tribunal grossly erred in adopting the multiplier method. Therefore, the compensation payable to the claimant will have to be re-worked as follows :

Sl.No.	Head	Amount in Rs.
1.	Compensation for Disability 36x3000	Rs.1,08,000/-
2.	Pain and suffering	Rs.50,000/-
3.	Transportation charges	Rs.5,000/-
4.	Extra nourishment	Rs.5,000/-
5.	Medical expenses	Rs.49,632/-
6.	Medicine Bills	Rs.47,242/-
	Total	Rs.2,64,874/-

4.The compensation payable to the claimant is reduced from Rs.4,09,600/- to Rs.2,64,874/-. The claimant is entitled for compensation of Rs.2,64,874/- along with interest at the rate of 7.5% per annum from the date of petition till the date of realization. The claimant is permitted to withdraw the compensation amount with accrued interest, after deducting the amount already withdraw, if any. The appellant is permitted to withdrawn the



balance amount, if any. This Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. I Additional District Judge,
Motor Accidents Claim Tribunal,
Tirunelveli.
2. The Record Keeper,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.V.SAKTHIVEL, Advocate SR.No.83600.
+1cc to M/S.P.PRABHAKARAN, Advocate SR.No.83367.

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and
M.P. (MD) No.1 of 2015
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