



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.08.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.705 of 2014

and

M.P.(MD)No.1 of 2014

The Managing Director,
Tamil Nadu State Transport Corporation,
No.37, Mettupalayam Road,
Coimbatore Region,
Coimbatore.

... Appellant / Respondent No.1

Vs.

Krishnamoorthy

... Respondent / Petitioner

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and award made in M.C.O.P.No.504 of 2011, dated 22.06.2012 on the file of Motor Accidents Claims Tribunal, Additional District & Sessions Court/E.C.Act Special Court, Thanjavur.

For Appellant : Mr.D.Sivaraman

For Respondent : Mr.B.Jameel Arasu

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/The Tamil Nadu State Transport Corporation, against the award, dated 22.06.2012, passed in M.C.O.P.No.504 of 2011, by the Motor Accidents Claims Tribunal, Additional District & Sessions Court/E.C.Act Special Court, Thanjavur.

2. It is a case of injury caused due to the accident that took place on 25.08.2010 at about 8.00 p.m, at Thanjavur-Trichy Road, in which, the driver of the Transport Corporation bus bearing Registration TN-33-N-2421 belongs to the appellant-Transport Corporation, drove the vehicle in a rash and negligent manner and dashed against the deceased, who was riding Bajaj Discover two wheeler on the extreme left side of the road and caused grievous injuries due to which the claimant suffered permanent disability.



3. The claimant filed an application in M.C.O.P.No.504 of 2011 on the file of the Motor Accident Claims Tribunal, Additional District & Sessions Court/E.C.Act Special Court, Thanjavur, seeking compensation.

4. Before the Tribunal, the claimants examined two witnesses as P.Ws.1 and 2 and marked twenty three documents as Ex.P.1 to Ex.P.23. On the side of the respondents, R.W.1 was examined and no document was marked.

5. The Tribunal, after considering the pleadings, oral and documentary evidence and arguments of the counsel for the appellant and claimant and also on appreciating the evidence on record, held that the accident occurred only due to the rash and negligent driving of the driver of the appellant/Transport Corporation and directed the appellant/Insurance Company to pay a sum of Rs.13,95,000/-, as compensation.

6. Against which, the appellant/Insurance Company has filed this present appeal on various grounds.

7. Heard the learned counsel appearing on both sides and perused the materials available on record.

8. The learned counsel for the appellant mainly argued on the ground that the Tribunal awarded Rs.4,00,000/- towards pain and suffering which is highly excessive and Rs.1,00,000/- towards extra nourishment also very high. He further submitted that the grant of total compensation of Rs.13,95,000/- is excessive and the same should be reduced.

9. Per contra, the learned counsel for the respondent/claimant contented that the injured claimant while attending interview for appointment of Police Constable had met with an accident and he lost his legs. The Tribunal has only taken Rs.5000/- as his income.

10. Even in the case of a person, who does not have any salary certificate, this Court had taken notional monthly income at Rs.6500/-. Here is a case, where the claimant would have gone for an interview and he would have been selected and he would have been got a job of Police Constable.

11. Therefore, in view of the judgment of the Hon'ble Supreme Court reported in **2013(1) TN MAC page 55 in Rajesh and Others Vs. Rajbir Singh and Others** the income of the injured claimant can be taken at Rs.6500/-. As per **Sarla Verma v. Delhi Transport Corporation**, reported in **2009(2) TN MAC 1 (SC)**, if multiplier 10 is taken, the amount towards loss of income would be **Rs.6,24,000/-**.



12. As rightly contended by the learned counsel for the appellant/Transport Corporation, the amount awarded for loss of pain and suffering at Rs.4,00,000/- is on the higher side. This Court is inclined to reduce the amount for pain and suffering at **Rs.1,00,000/-**. However, this Court is not inclined to reduce the amount granted towards extra nourishment, since the claimant has lost his legs in the accident. The amounts awarded under the other heads are also just and reasonable and the same does not require interference at the hands of this Court.

13. This Court modifies the compensation in the following manner:

Description	Amount
Pain and suffering	Rs. 1,00,000/-
Transportation and income during period of treatment	Rs. 10,000/-
Extra Nourishment	Rs. 1,00,000/-
Artificial limb	Rs. 25,000/-
Partial Disability	Rs. 36,000/-
For medical expenses	Rs. 3,04,000/-
For loss of income	Rs 6,24,000/-
Total	Rs. 12,39,000/-
	Rounded off to Rs.12,40,000/-

14. In the result, this Civil Miscellaneous Appeal is partly allowed. and the award made in M.C.O.P.No.504 of 2011, dated 22.06.2012 on the file of Motor Accidents Claims Tribunal, Additional District & Sessions Court/E.C.Act Special Court, Thanjavur, is hereby modified. The total compensation is reduced to Rs.12,40,000/- from Rs.13,95,000/-. The appellant/Transport Corporation is directed to deposit the entire award amount with accrued interests and costs, within a period of six weeks from the date of receipt of a copy of this order, if not already deposited and on such deposit being made, the respondent/claimant is permitted to withdraw the amount with proportionate interests and costs without filing formal permission petition. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar



To,

1. The Motor Accidents Claims Tribunal,
Additional District & Sessions Court/E.C.Act Special Court,
Thanjavur.

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

+1cc to Mr.D.Sivaraman, Advocate Sr.No.71506

+1cc to Mr.B.Jameel Arasu, Advocate Sr.No.71759

CM

VB/MR/KKR/SAR4/21/09/2017/4P/5C

C.M.A(MD)No.705 of 2014
and
M.P. (MD)No.1 of 2014
09.08.2017