



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.07.2017

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No. 512 of 2015

P.Valarmathi

... Appellant/Petitioner

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
(Madurai Division-I),
By-pass Road,
Madurai -10.

... Respondent/Respondent

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 11.12.2014 passed in M.A.C.O.P.No.34 of 2014 on the file of the Motor Accident Claims Tribunal (Subordinate Court), Veda sandur.

For Appellant : Mr.R.Senthil Kumar

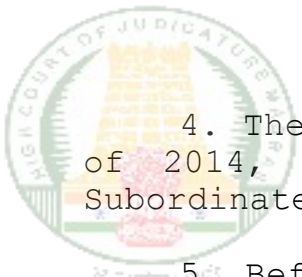
For Respondent : Mr.P.Prabhakaran

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/claimant against the award, dated 11.12.2014 made in M.A.C.O.P.No.34 of 2014 by the Motor Accidents Claims Tribunal, Subordinate Court, Veda sandur.

2. It is a case of injury sustained by the claimant in an accident, which took place on 23.08.2013 at about 06.40 a.m., on Dindigul to Karur NH.7, near Andipattikottai, on the north side of Z.Alamarathupatti Branch Road.

3. It is the case of the injured/claimant before the Tribunal that when she was travelling in the Bus bearing Registration No.TN 58 N 1855 from Veda sandur to Karur, at about 06.40 a.m., while the bus was proceeding from South to North in between Z.Alamarathupatti pirivue and Andipattikottai, the bus dashed behind a stationed lorry bearing Registration No.TN 69 L 4066 on the 1st track intended for the vehicles going towards north, on the left side of the road. In that accident, the injured/claimant, who was sitting in the left of the bus near the driver seat, sustained multiple injuries all over the body.



4. The injured claimant filed an application in M.A.C.O.P.No.34 of 2014, on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Veda sandur.

5. Before the Tribunal, the claimant examined two witnesses as P.Ws.1 to 2 and marked eleven documents as Ex.P.1 to Ex.P.11 and on the side of the respondent/Transport Corporation, one witness was examined as R.W.1 and the respondent did not let in any documentary evidence.

6.The Tribunal, after considering the pleadings, oral and documentary evidence and the arguments advanced on either side and also appreciating the evidence on record held that the accident occurred only due to the rash and negligent driving of the driver of the Transport Corporation bus and directed the Transport Corporation to pay a sum of Rs.1,80,000/-, as compensation.

7. Against which, the appellant/claimant filed this present appeal seeking enhancement of compensation.

8. The learned counsel for the appellant/claimant would submit that the victim sustained injuries and she was treated by P.W.2-Doctor. The Doctor had issued the Disability Certificate under Ex.P10 assessing the disability for breathing at 30% and for bone disfigurement at 5%. But, the Tribunal has reduced the same to 20% and 5% respectively and awarded Rs.75,000/- (25 X 3000) and therefore, the disability fixed by the Tribunal is to be increased.

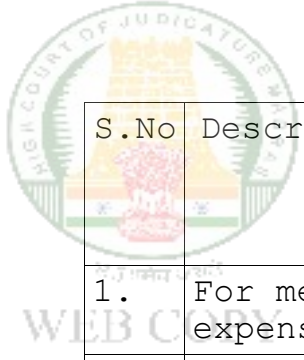
9.Considering the above submission and also considering the disability certificate issued by the Doctor, this Court fixes the disability at 35% (30% + 5%) and awards a sum of Rs.1,05,000/- (Rupees One Lakh and Five Thousand Only), towards disability.

10.Further, the sum of Rs.7,500/- (Rupees Seven Thousand and Five Hundred only) awarded by the Tribunal towards extra nourishment, is on the lower side and therefore, the same is enhanced to a sum of **Rs.20,000/-** (Rupees Twenty Thousand only).

11.Further, the sum of Rs.7,500/- (Rupees Seven Thousand and Five Hundred only) awarded by the Tribunal towards pain and suffering, is on the lower side and therefore, the same is enhanced to a sum of **Rs.20,000/-** (Rupees Twenty Thousand only).

12. Similarly, the Tribunal has not awarded any compensation towards transportation. Therefore, a sum of **Rs.5,000/-** (Rupees Five Thousand only) is awarded by this Court and the amount awarded for medical expenses is confirmed.

13. In view of the settled position of law, this Court modifies the award of the Tribunal by enhancing the compensation, as under:-



S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	For medical expenses	99,000	99,000	confirmed
2.	For disability	75,000	1,05,000	enhanced
3.	For Transportation		5,000	awarded
4.	For extra nourishment	7,500	20,000	enhanced
5.	For pain and suffering	7,500	20,000	enhanced
	Total	Rs.1,89,000	Rs.2,49,000	By enhancing a sum of Rs.60,000/-

14. It is to be noted that the Tribunal awarded a sum of Rs.99,000/- towards medical expenses, but while calculating the total compensation, the said sum has been wrongly taken as Rs.90,000/- and the total has been wrongly calculated as Rs.1,80,000/- instead of Rs.1,89,000/- and the same is corrected.

15. In the result,

(i) This Civil Miscellaneous Appeal is partly allowed, enhancing the award of the Tribunal from **Rs.1,89,000/-** (Rupees One Lakh and Eighty Nine Thousand only) to a sum of **Rs.2,49,000/-** (Rupees Two Lakhs and Forty Nine Thousand only) along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs;

(ii) The respondent/Transport Corporation is directed to deposit the entire award amount of **Rs.2,49,000/-** (Rupees Two Lakhs and Forty Nine Thousand only) with accrued interests and costs, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant/claimant is permitted to withdraw the entire award amount, with accrued interests and costs, without filing any formal application before the Tribunal. No Costs.

Sd/-

Assistant Registrar (CO)

/True Copy/



To

1. The Subordinate Judge,
Motor Accidents Claims Tribunal,
Vedasandur.

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

+ 1 CC TO Mr.R.SENTHILKUMAR, ADVOCATE IN SR No. 69262

+ 1 CC TO Mr.P.PRABHAKARAN, ADVOCATE IN SR No. 68920

PM

TE/MR-KKR/SAR-I : 28/08/2017 : 4P/5C

C.M.A (MD) No.512 of 2015
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