

IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON : 20.11.2018
JUDGMENT PRONOUNCED ON : 21.12.2018

CORAM

THE HONOURABLE Mr.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

CMA.No.2566 of 2018
and CMP.No.19494 of 2018

The Managing Director
State Express Transport Corporation Ltd.,
Chennai. ... Appellant / 1st Respondent

Vs

1.Chandrasekaran
2.Rathinasabhpathy
3.The United India Insurance Company Limited
Akshya Buildings
Manjakuppam
Cuddalore. Respondents / Petitioner,
Respondents 2 & 3

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 24.4.2018, made in MCOP.No.242 of 2012 on the file of Motor Accidents Claims Tribunal (Chief Judicial Magistrate), Cuddalore.

For Appellant : Mr.R.Annamalai
For Respondents: Mr.P.Kandasamy [R1]

JUDGMENT

[Judgment of the Court delivered by N.SESHASAYEE, J.]

Chandrasekaran, an owner of the fish farm and stated to be earning about Rs.5,00,000/- per annum, who when was barely 22 years, suffered a near fatal accident on 22.12.2011 at about 8.30 hours on the Srivilliputhur to Madurai Main Road, when a State Transport Corporation bus bearing Registration No. TN-01-N-7540 belonging to the appellant dashed against the car in which he was travelling. The accident had occurred due to the negligence of the driver of the bus. In the accident, Chandrasekaran suffered multiple grievous injuries all over the body and ultimately lost both his legs. Seeking a compensation

of Rs.1,00,00,000/-, the claimant approached the Tribunal.

2.1 Before the Tribunal, the Claimant has examined himself as P.W.1. He examined Dr.Vijayanand Thambaiah as P.W.2 besides producing as many as twelve documents that are marked Ext.P1 to Ext.P12. P.W.2 had noted fractures of C5 and C6 bones on the vertebra, lack of total sensation below the hip region, paraplegia of both the legs, no sensation while passing urine and motion, impotency, sexual dysfunction, incapacity to hold things and has evaluated the permanent disability at 90%. This was confirmed by the Medical Certificate, Ex.C1, issued by the Doctors of the Government Cuddalore Hospital.

2.2 Taking into consideration that the extent of injuries suffered by the claimant that has pushed him into vegetable state, the Tribunal has treated the disability at 100%, reckoning his monthly income at Rs.18,000/- or Rs.2,16,000/- per annum and reckoned his age as 30 years and applied '17' as multiplier and arrived at the compensation amount payable for loss of earning capacity at Rs.36,72,000/- [Rs.18,000x12x17]. The compensation awarded on the other heads are also tabulated below :

Sl.No.	Heads of compensation	Amount Awarded by MACT (Rs.)
1	100% Permanent Disability	36,72,000.00
2	Towards Future Life	18,36,000.00
3	Pain and Suffering	2,50,000.00
4	Loss of future life	2,50,000.00
5	Loss of marital life	2,50,000.00
6	Loss of Clothes	1,000.00
7	Transportation	25,000.00
8	Attendant Charges	2,00,000.00
9	Nourishment	1,00,000.00
10	Medical Expenses	1,98,230.00
11	Future Medical Expenses	2,00,000.00
Total :		69,82,230.00

4. In this appeal, the appellant-State Transport Corporation has challenged both the negligence as well as the quantum of compensation paid.

5.1 Heard both sides. On going through the evidence, this Court is satisfied and found there is nothing to interfere with the findings of negligence on the part of the driver of the bus.

The accident has left the young man in a conscious vegetative state. Everything that a normal human being can perform, the petitioner cannot and very sadly he knows that he can't. And, he knew that it was a loss he suffered, for no fault of his and this, therefore takes this Court to assess whether the compensation as determined by the Tribunal requires interference. The claimant with a life expectancy for another 30 to 40 years, has to continue in the same state of affairs.

5.2.This Court, therefore finds that the monthly income, the percentage of disability as reckoned by the Tribunal, as the most appropriate that the Tribunal can do. Looking into other heads of compensation, the only area where this Court would like to interfere is with regard to compensation for loss of marital life. This is because, the Tribunal has already awarded Rs.2,50,000/- towards loss of life, and for a married man, 'loss of life' and 'loss of married life' cannot be differentiated much. Except for this amount of Rs.2,50,000/- on this head, rest of the award of the Tribunal is in order. This would mean that the compensation amount has to be reduced by Rs.2,50,000/- and accordingly, the total compensation payable under the award dated 24.04.2018 in MCOP.No.242 of 2012 is now modified to Rs.67,32,230/- [Rs.69,82,230 - Rs.2,50,000].

6. In the result, this appeal is partially allowed and the appellant is directed to pay a sum of Rs.67,32,230/- along with accrued interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, less any amount already deposited, if any, in the Bank Account as directed in the award, within a period of six weeks from the date of receipt of a copy of this order and the claimant is permitted to withdraw the same. The claimant is also directed to pay the necessary/additional court fee, if any to be paid on his part as mentioned in the award. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar (CS V)

True Copy

Sub-Assistant Registrar

ds
To:

1.The Chief Judicial Magistrate
Motor Accident Claims Tribunal
Cuddalore.

2.The Section Officer
VR Section, High Court, Madras.

+1 CC to Mr.R.Annamalai, Advocate sr 89563.
+2 Ccs to Mr.P.Kandasamy, Advocate sr 89637

CMA.No.2566 of 2018

RV(CO)
SP(28/03/2019)