

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKA RAMAN

C.M.A.No.1391 of 2011

Subramanian

...Appellant/Claimant
Vs.

The Managing Director,
Tamil Nadu State Transport Corp.,
3/137, Salamedu,
Vazhudareddy, Villupuram.

... Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award dated 13.10.2009, in M.C.O.P.No. 641 of 2006 on the file of the Motor Accidents Claims Tribunal, District Court, Cuddalore.

For Appellant : Mr.Kalyanaraman.S.

For Respondent : Mr.S.V.Vasantha kumar

JUDGMENT

The appellant is the claimant in M.C.O.P.No. 641 of 2006, on the file of the Motor Accidents Claims Tribunal, District Court, Cuddalore. He has filed the above claim petition under Section 166(1) of the Motor Vehicles Act, 1988 seeking compensation of Rs.8,00,000/- for the injuries sustained by him in a road accident that took place on 19.09.2005.

2. The brief case of the appellant/claimant is as follows:

On 19.09.2005, at about 05.30 pm, the appellant/claimant travelled as a pillion rider in a Hero Honda motorcycle driven by one Rajendiran. While they were travelling along Ulundurpet-Kallakurichi main road at Sirupakkam Branch road, they entered the main road keeping left side of the road. At that time, a bus bearing Registration No. TN 31 N 1798, belonging to the Tamil Nadu State Transport Corporation, hit the motorcycle in which the injured was travelling, as a result of which, the appellant/claimant sustained grievous. According to the appellant/claimant, the rash and negligent driving of the driver of the said bus was the cause of the accident, and that, since,

the said bus belonged to the respondent herein, they are liable to pay compensation of Rs.8,00,000/- to him.

3. The learned Tribunal, after analysing the evidence on record, awarded a compensation of Rs.1,10,000/- together with interest at the rate of 7.5% per annum to the appellant/claimant. Not satisfied with the quantum of compensation awarded by the Tribunal, the claimant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

4. The learned counsel appearing for the appellant/claimant contended that the compensation awarded by the Tribunal under the head 'disability' is too meagre, especially, when the appellant/claimant has sustained fracture on his right shoulder and fifth rib. He would further contend that the compensation awarded by Tribunal under other heads is also meagre and therefore, it should be enhanced.

5. The learned counsel appearing for the Transport Corporation would contend that the Tribunal has considered all the aspects and awarded just and reasonable compensation and the same need not be disturbed at this juncture.

6. After going through the oral and documentary evidence adduced before the Tribunal, it can be seen that the Tribunal has rightly concluded that only due to the rash and negligent driving of the driver of the bus bearing Registration No. TN 31 N 1798, the accident happened and accordingly, fixed the liability on the Transport Corporation.

7. Quantum of compensation: taking into consideration, all the injuries sustained by the appellant/claimant, as reflected in accident register copy (ex.p3), discharge slip (ex.p4), X-ray (ex.p7) and also taking note of the fracture sustained by him, on his right shoulder and fifth rib, this Court is of the considered view that, for the disability a sum of Rs.1,00,000/- can be awarded and accordingly, the sum is enhanced from Rs.75,000/- to Rs.1,00,000/-. Considering the nature of injury, a sum of Rs.25,000/- is awarded towards pain and sufferings. A sum of Rs.5,000/- and Rs.5,000/-, awarded under the heads 'travel expenses' and 'extra nourishment' are enhanced to Rs.6,000/- and Rs.10,000/- respectively. The occupation of the appellant/claimant is agriculture and his age is admittedly 48 years. Since, the accident is of the year 2005, this Court is of the opinion that fixing the monthly income as Rs.3,000/- per month would meet the ends of justice. As the appellant/claimant sustained fracture on his right shoulder and fifth rib, he would not have been in a position to attend to his work at least for two months, accordingly, a sum of Rs.6,000/- is awarded towards loss of income. The Tribunal has not awarded any amount under the head 'loss of amenities' and 'attender's charges' and

therefore, a sum of Rs.9,000/- and Rs.5,000/- are awarded towards the same respectively.

8. Accordingly, the award of the Tribunal in M.C.O.P.No. 113 of 2004 is modified as follows:

Sl. No.	Particulars	Amount granted by the Tribunal	Amount granted by this Court
1	Disability	Rs.75,000/-	Rs.1,00,000/-
2.	Pain and sufferings	Rs.15,000/-	Rs.25,000/-
3.	Travel expenses	Rs.5,000 /-	Rs.6,000 /-
4.	Extra nourishment	Rs.5,000/-	Rs.10,000/-
5.	Medical expenses	Rs.5,000/-	Rs.5,000/-
6.	Loss of income	Rs.5,000/-	Rs.6,000/-
7.	Loss of amenities	NIL	Rs.9,000/-
8.	Attender's charges	NIL	Rs.5,000/-
	Total	Rs. 1,10,000/-	Rs.1,66,000/-

The compensation awarded by the Tribunal is enhanced from Rs.1,10,000/- to Rs. 1,66,000/- which shall carry interest at the rate of 7.5% per interest.

9. In the result,

(i) The Civil Miscellaneous Appeal is allowed in part. No costs.

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.1,10,000/- to Rs. 1,66,000/-.

(iii) The respondent herein - Tamil Nadu State Transport Corporation is directed to deposit the entire compensation of Rs.1,66,000/- (if not already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No. 641 of 2006, dated 13.10.2009, on the file of the Motor Accidents Claims Tribunal, District Court, Cuddalore within a period of twelve weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the appellant/claimant is permitted to withdraw the entire amount after following the due process of law.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

The Motor Accidents Claims Tribunal,
The District Court,
Cuddalore.

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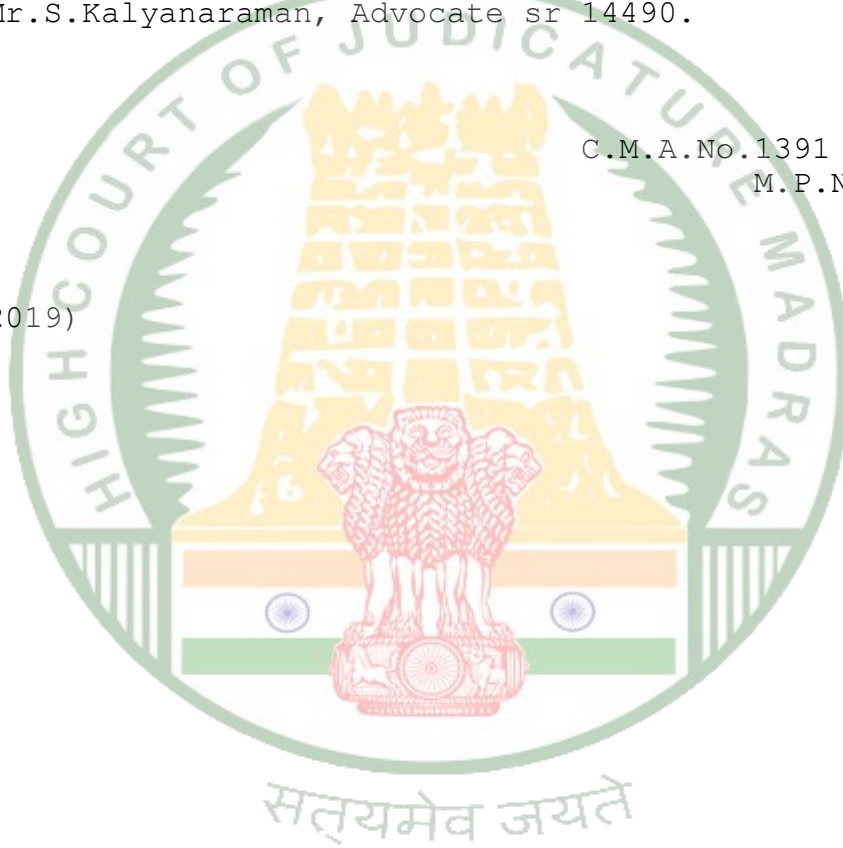
The Section officer
VR Section, High Court, Madras 104.

+1 CC to Mr.S.V.Vasantha Kumar, Advocate sr 14012.

+1 CC to Mr.S.Kalyanaraman, Advocate sr 14490.

C.M.A.No.1391 of 2011 and
M.P.No.1 of 2011

BS (CO)
SP (09/05/2019)



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