



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving the Order	Date of Pronouncing the Order
01.03.2019	17.06.2019

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CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.1597 of 2011

Paneerselvam

.... Appellant

Vs.

1. The Managing Director,
Tamilnadu State Express Transport
Corporation Ltd., Chennai.

2. S. Shanmugam,

3. The Branch Manager,
Oriental Insurance Co. Ltd.
No.115, Broadway,
Chennai - 600 108

....Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P.No.122 of 2004 dated 27.10.2005 on the file of the Motor Accidents Claims Tribunal and Chief Judicial Magistrate No.1, Dharmapuri District, Krishnagiri.

For Appellant : Mr. V. Kumaravelan
For Respondent-2 : Not ready in Notice
For Respondent-3 : Mr. S. Monohar
R1 : Mr.S.V.Vasanth Kumar

J U D G M E N T

The Civil Miscellaneous Appeal arises out of the Judgment and Decree dated 27.10.2005 made in M.C.O.P.No.122 of 2004 on the file of the Motor Accidents Claims Tribunal and Chief Judicial Magistrate No.1, Dharmapuri District, Krishnagiri (for brevity, "the Tribunal").



2. The claimant is the appellant herein, has filed the appeal seeking for enhancement of compensation. The factum of the accident occurred on account of collision between the bus of the Government Transport Corporation/first respondent and the lorry of the second respondent/second respondent is not in dispute. Due to impact of the accident between the two vehicles, diesel tank of the bus belonging to the Government Transport Corporation was burst resulting in high blame, two persons were died and the petitioner herein sustained severe injuries therein.

3. The Tribunal has, on consideration of the entire evidence adduced by the parties held that the driver of the first respondent's bus and driver of the lorry of the second respondent are jointly and severally liable to pay compensation to the claimant/appellant herein. Accordingly, the Tribunal having fixed composite negligence at 50% each on both the

T.N.S.E.T.C bus driver and the lorry driver and in the absence of contra evidence the same is hereby confirmed.

4. On the point of quantum both the parties have heard.

5. It is seen from the evidence of P.W.3, Doctor Ashok Kumar that P.W.1, Claimant has suffered injuries in the aforesaid accident as could be seen from Ex.P2, Accident Register issued by the Vellore Government Hospital and subsequently, he has taken treatment in the Private Hospital, namely, Srinivas Hospital, Krishnagiri marked as Ex.P3. It is seen that during treatment, to ascertain the nature of the fracture, X-ray was taken in the Government Hospital, Vellore. Further, he was advised to take another X-ray since previous one was not in distinct to ascertain the fracture. In view of the above, the patient is discharged voluntarily from the Hospital and went to his native place for taking further treatment.

6. Having considered the documentary evidence of P.W.3, Doctor who has issued Ex.P8, disability certificate wherein the disability has been fixed at 40% as partial permanent disability. In the absence of contra evidence, the consolidated amount of Rs.40,000/- for disability at 40% is hereby granted and compensation awarded under other headings are as under:

SL. No.	Particulars	Amount (in Rs.)
1	Disability to the claimant	40000.00
2	Medical Expenses	1500.00



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SL. No.	Particulars	Amount (in Rs.)
3	Pain and suffering	7000.00
4	Transport to the Private Hospital	3000.00
5	Nutrition and Extra Nutrition	5000.00
Total Amount		56500.00

7. Thus, the compensation awarded by the Tribunal has been enhanced by Rs.32,000/- from Rs.24,500/- to Rs.56,500/- with interest @ 9% per annum from the date of petition till the date of deposit and the First respondent/Transport Corporation and the third respondent/Insurance Company are directed to deposit the award amount at the ratio 50:50 each enhanced by this Court to the credit of M.C.O.P. No.122 of 2004 and on such deposit, the appellant/claimant is permitted to withdraw the same along with the interest.

8. In the result, the appeal is partly allowed. Accordingly, the impugned award passed by the Tribunal is modified. There shall be no order as to costs.

Sd/-
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

lbm

To
Motor Accidents Claims Tribunal and
Chief Judicial Magistrate
No.1, Dharmapuri District, Krishnagiri

Copy To : The Section Officer,
VR Section, High Court, Madras.

+1cc to Mr.S.Manohar, Advocate SR.No.49049

C.M.A.No.1597 of 2011

GJ(CO)
GMY(10/10/2019)