



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 05.04.2019
CORAM:
THE HONOURABLE MR. JUSTICE RMT.TEEKA RAMAN
C.M.A.No.3527 of 2011

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Venkataraman @ Raman

...Appellant/Petitioner
Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Bharathipuram,
Dharmapuri-5

... Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award dated 21.12.2010 in M.C.O.P.No. 374 of 2007 on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Judge, Krishnagiri.

For Appellant : Mr.Mukund R.Pandian
For Respondent : No appearance

JUDGMENT

The appellant is the claimant in M.C.O.P.No. 374 of 2007 on the file of the Motor Accidents Claims Tribunal, (Principal Subordinate Judge), Krishnagiri. He has filed the above claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.20,00,000/- for the injuries sustained by him in a road accident that took place on 07.06.2006.

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

On 07.06.2006, at about 16.45 hours, the appellant/claimant travelled as a pillion rider in a Motorcycle along with one Chandran who was riding of the vehicle. While, they were proceeding near Samalpatti Railway gate by observing the rules of the road. At that time, a bus bearing Registration No. TN 29 N 1615, 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 injuries. The rider of the two wheeler crushed to death on the spot. 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.20,00,000/- to him.

3. The learned Tribunal, after analysing the evidence on record, awarded a compensation of Rs.1,09,350/- together with interest at the rate of 6% 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 would contend that the disability arrived by the Tribunal is very low. He would further contend that the Tribunal without considering the various injuries sustained by the claimant, awarded a very meagre compensation.

5. Per contra, the learned counsel appearing State Express Transport Corporation would contend that at the time of the accident, the claimant should prove that the vehicle was having valid fitness certificate and the driver who was having valid driving licence to drive the vehicle. The claimant was driving the motorcycle bearing Registration No.TN 29 P 9721 came in a rash and negligent manner in the opposite direction and dashed against the bus and caused the accident. The accident occurred only due to the negligence on the part of the driver of the motorcycle. The appellant/claimant should prove that the age, monthly income, the nature of injuries, period of treatment, medical expenditure and the percentage of disability suffered. The amount of compensation claimed is highly excessive.

6. Heard the learned counsel appearing for the appellant.

7. Before the Tribunal, on the side of the claimant, P.W.1 and P.W.2 were examined and Exhibits A1 to A9 were marked. On behalf of the respondent-Transport Corporation, RW1 was examined and no documents were marked.

8. On re-appreciation of the evidence, this Court holds that based upon Exhibit A3-Discharge summary and Exhibit A7-Disability Certificate coupled with P.W.2 has deposed that the appellant/claimant could not take any lift weights and he could not do hard work as before the accident. Hence, the Doctor has assessed the permanent disability as 45%. PW2 has subjected to cross examination and his evidence was not shattered and more over, there is no contra evidence to disprove the evidence of P.W.2. Hence, the evidence of P.W.2 is an acceptable one and permanent disability is fixed at 45% and compensation has to be fixed as per the TNSTC Vs.Kannappan case at the rate of 1% per



percent as per the age of the appellant/claimant. Hence, a sum of Rs.45,000/- is awarded under the head of 'permanent disability'.

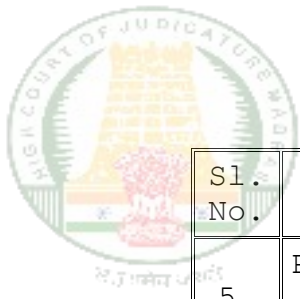
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9. Taking into consideration of the medical evidence of P.W.2-Doctor D.V.Gandhi coupled with Exhibits A3 and A7, the Tribunal has fixed the disability at 45% and accordingly, awarded Rs.1,500/- per percentage and awarded a sum of Rs.67,500/- towards 'permanent disability'.

10. Due to the injuries sustained in the accident, the appellant/claimant would have been prevented from attending his work to a maximum of 2 months. Hence, a sum of Rs.13,500/- has awarded towards 'partial loss of earning during treatment' and the same is enhanced to Rs.27,000/-(Rs.13,500x2) With regard to medical expenses, Rs.33,850/- has awarded by the Tribunal and the same is hereby confirmed. With regard to medical assistance, Rs.2,000/- has awarded by the Tribunal and the same is hereby confirmed. The compensation awarded under the head 'Transport to hospital and extra nourishment' is enhanced from Rs.5,000/- to Rs.10,000/- each. towards 'pain and sufferings' is enhanced from Rs.10,000/- to Rs.15,000/-, a sum of Rs.30,000/- is awarded towards 'loss of amenities'. Since, the appellant/claimant took treatment at Government Hospital, a sum of Rs.10,000/- is awarded towards attender's charges.

11. Accordingly, the award of the Tribunal in M.C.O.P.No. 374 of 2007 is modified as follows:

Sl. No.	Particulars	Amount granted by the Tribunal	Amount granted by this Court
1.	Permanent disability	Rs. 45,000/-	Rs. 67,500/-
2.	Partial loss of earning during treatment (Rs.13,500x2months)	Rs. 13,500/-	Rs. 27,000/-
3.	Medical bills	Rs. 33,850/-	Rs. 33,850 /-
4.	Transport to hospital and Extra nourishment	Rs. 5,000/-	Rs. 20,000/- (Rs.10,000/- each)



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Sl. No.	Particulars	Amount granted by the Tribunal	Amount granted by this Court
5.	Pain and sufferings	Rs. 10,000/-	Rs. 15,000/-
6.	Attender's charges	----	Rs. 10,000/-
7.	Loss of amenities	----	Rs. 30,000/-
8.	Medical Assistance	Rs. 2,000/-	Rs. 2,000/-
	Total	Rs. 1,09,350/-	Rs.2,05,350/-

The compensation awarded by the Tribunal is enhanced from Rs.1,09,350/- to Rs.2,05,350/- which shall carry interest at the rate of 7.5% per annum.

12. 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.1,09,350/- to Rs.2,05,350/-. It is made clear that the appellant/claimant is entitled to interest only at the rate of 7.5% per annum.

(iii) The respondent herein - Tamil Nadu State Express Transport Corporation is directed to deposit the entire compensation of Rs.2,05,350/- (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. 374 of 2007 on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Judge, Krishnagiri 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.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar



To

1. The Motor Accidents Claims Tribunal,
The Principal Subordinate Judge,
Krishnagiri

2. The Section Officer,
V.R.Section, High Court, Chennai.

+1 cc to Mr.Mukund R.Pandian Advocate sr34945

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