



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.02.2019

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THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.A. (MD) .No. 1228 of 2017

and

C.M.P. (MD) .Nos.11575 & 12005 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation,
Kumbakonam. ... Appellant/Respondent

Vs.

P.A. Pakkir Mohamed ...Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 13.10.2015 made in M.C.O.P.No. 416 of 2011, on the file of the Motor Accident Claims Tribunal (Special Subordinate Court), Thanjavur.

For Petitioner : Mr.P. Prabhakaran

For Respondent : Mr. M. Taamilmani

JUDGMENT

C.M.P.(MD) No.11575 of 2017 has been filed by the petitioner/claimant to withdraw 50% of the award amount in M.C.O.P. No.416 of 2011, on the file of the Motor Accident Claims Tribunal (Special Subordinate Court), Thanjavur.

2. Today, when the matter is taken up for hearing, the learned counsel appearing for the appellant as well as the learned counsel appearing for the respondent are present and they are also come forward to represent the Civil Miscellaneous Appeal itself.

3. This Civil Miscellaneous Appeal has been preferred by the appellant against the award and decree dated 13.10.2015 made in M.C.O.P.No. 416 of 2011, on the file of the Motor Accident Claims Tribunal (Special Subordinate Court), Thanjavur.

4. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and perused the materials available on record.

5. M.C.O.P. No.416 of 2011 was filed by the injured claiming compensation of Rs.7 lakhs (Rupees Seven lakhs Only) before the Motor Accident Claims Tribunal (Special Subordinate Court), Thanjavur.

6. The petitioner herein/managing director in the counter

statement has contended that the claim petition filed by the claimant has to be dismissed, since the owner and the insurance company of the two-wheeler were not added as parties. He further contended that the claim made by claimant under various heads were also not proved and also very much excessive. He further contended that the mode of accident is also denied by the respondent and the Tribunal after analysing the evidences and documents placed before the same has given a finding that the rash and negligent driving of the bus bearing registration No. TN-49-19-1824 and fixed the liability that the petitioner herein/management has to be compensation to the claimant. He further contended that the tribunal has awarded a sum of Rs.2,73,549/-is very high. Hence, aggrieved over the same, the petitioner herein/management has preferred the present Civil Miscellaneous Appeal.

7. The Tribunal after considering the evidence and documents produced on both sides, awarded a sum of Rs.2,73,549/- against the claim made by the claimant at Rs.7 lakhs. The sum awarded by the Tribunal is as follows:

Sl.No.	Name of the Head	Amount awarded by the Tribunal
1	For partial permanent disability	Rs.1,14,000/-
2	Towards Medical Expenses	Rs. 55,049/-
3	For pain and suffering	Rs. 50,000/-
4	Towards extra nourishment	Rs. 15,000/-
5	Expenses for Attender	Rs. 6,000/-
6	Towards transportation	Rs. 3,500/-
7	Towards Loss of Income	Rs. 30,000/-
	Total	Rs.2,73,549/-

8. It is the grievance of the petitioner that the alleged accident has not occurred with the appellant's bus, more over the vehicle involved in the accident was not mentioned in the First Information Report. The further grievance of the petitioner is that the tribunal had wrongly fixed the entire responsibility for the accident on the part of the driver of the appellant/Transport Corporation and the tribunal has awarded a sum of Rs.2,73,549/-to the claimant is too excessive and exorbitant one.

9. Though the petitioner questioning the liability and the very much objection raised is only for the quantum of compensation. It is argued by the learned counsel appearing for the appellant that when there is a disability of 38%, but the tribunal has awarded a sum of Rs.1,14,000/-is very much high. Further, the tribunal has awarded a huge sum towards the expenses of attender for pain and suffering at Rs.6,000/-.

<https://hcservices.courts.gov.in/hcservices>

10. The learned counsel appearing for the



respondent/claimant argued that the claimant has sustained fracture injuries and the above said contention was proved through the evidence of P.W.2, Doctor, who has assessed the disability at 38% and a sum calculated by the tribunal Rs.1,14,000/- is very much reasonable one.

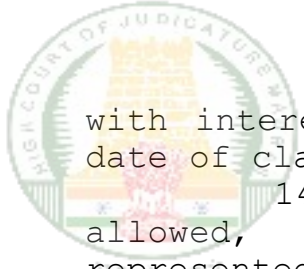
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11. The learned counsel appearing for the appellant vehemently contended that in the absence of any specific proof for the monthly income of the injured, the tribunal has fixed the monthly income of the injured as Rs.7,500/-is very high. He further contended that a sum of Rs.55,049/-towards medical expenses is too high and a sum of Rs.50,000/-towards pain and sufferings, Rs.15,000/-towards extra nourishment and Rs.6000/-towards attender charges and Rs.3500/-towards transport expenses are also high.

12. On hearing both sides and upon perusing the documents, it is seen that the claimant was under treatment as inpatient and out patient for a very long period and the nature of injuries sustained is also grievous in nature. Moreover, the history of treatment and discharge summary reveals the said fact. Hence the sum awarded under the head of disability is necessary to be modified. However considering the nature of injuries and period of treatment, the Tribunal has awarded a sum of Rs.1,14,000/- towards permanent disability is modified and granted 38% x 2000 =Rs.76,000/- towards permanent disability and the amount towards attendant charges and this Court modified and awarded a sum of Rs.4,000/- under the said head. The awards under other heads remains unaltered.

13. Accordingly, the claimant is entitled for compensation as follows:

S. No.	Description	Amount awarded by		Award confirmed / enhanced / granted
		Tribunal	this Court	
1.	For partial permanent disability at 38%	Rs.1,14,000/-	Rs.76,000/-	granted
2.	Towards medical expenses	Rs.55,049/-	Rs.55,049/-	confirmed
3.	For pain and suffering	Rs.50,000/-	Rs.50,000/-	confirmed
4.	Towards extra nourishment	Rs.15,000	Rs.15,000	Confirmed
5.	Towards attendant charges	Rs.6,000/-	Rs.4,000/-	granted
6.	Towards transportation	Rs.3,500	Rs.3,500/-	Confirmed
7.	Towards Loss of income	Rs.30,000/-	Rs.30,000/-	confirmed
Total		Rs.2,73,549/-	Rs.2,33,549/-	



with interest at 7.5% p.a., as awarded by the Tribunal, from the date of claim petition till the date of realization.

14. In the result, the Civil Miscellaneous Appeal is partly allowed, awarded the compensation of Rs.2,33,549/-. It is represented by the learned counsel appearing for the appellant that the entire amount has been deposited and accordingly, the appellant is permitted to withdraw the excess amount. The respondent herein/claimant is permitted to withdraw the modified award amount which is lying in the deposit before the tribunal with accrued interest and costs, by filing necessary application before the Tribunal. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar(CS)

To

The Motor Accidents Claims Tribunal,
Special Subordinate Judge,
Thanjavur.

Copy to:

The Record Keeper,V.R.Section,
Madurai Bench of Madras High Court,
Madurai.(2 Copies)

+1cc to Mr.P.PRABHAKARAN, Advocate, SR.No. 45960

+1cc to Mr.K.TAMILMANI, Advocate, SR.No.45805

C.M.A. (MD) .No.1228 OF 2017

08.02.2019

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