

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2020

C O R A M

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.2629 of 2011

Rameshbabu

...Appellant/Petitioner

Versus

1.The Managing Director,
Tamilnadu State Transport Corporation Ltd.
Vellore.

2.Arulmani

3. The Divisional Manager,
The United India Insurance Co. Ltd.,
No.46, Katpadi Road,
Vellore.

...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed against the order and decree dated 30.11.2002 made in M.C.O.P.No.162 of 2001 on the file of the Motor Accident Claims Tribunal, Additional District Judge cum Chief Judicial Magistrate's Court, Tiruvannamalai District.

For Appellant : Mrs. Subadra

For Respondent-1 : Mr. C.S.K. Sathish

R2 - Ex-parte

R3- Formal Party

J U D G M E N T

The claimant before the Tribunal has preferred this appeal against the Judgment and order in M.C.O.P.No.162 of 2001 dated 30.11.2002 on the file of the Motor Accident Claims Tribunal, Additional District Judge cum Chief Judicial Magistrate's Court, Tiruvannamalai District, seeking for enhancement of compensation.

2. The facts of the case briefly are as follows:

On 15.03.2000, due to the rash and negligent driving of the driver of the 1st respondent's state owned bus, it dashed the Milk Lorry bearing Registration No.TN-29-Y-1131 which was driven by the appellant when it was stationed on the left side

of the road for the purpose of loading the milk cans therefrom. Due to the impact of the accident, the appellant sustained fracture at his left hand and took treatment initially at Government Hospital, Chengam. Thereafter, he took treatment at Government's Headquarter's Hospital, Tiruvannamalai. As a result of which, the claimant/appellant herein preferred claim petition seeking for compensation by way of claim petition in M.C.O.P.No.162 of 2001 before the Tribunal. After trial, the claimant/appellant herein was awarded a sum of Rs.35,000/- as compensation.

3. Being aggrieved by the award passed by the Tribunal, the claimant/appellant herein has filed the present appeal contesting the meagre award amount and seeking for enhancement of the compensation awarded by the tribunal.

4. The learned counsel appearing on behalf of the appellant submits that the Tribunal has awarded a meagre sum of Rs.35,000/- (Rupees Thirty Five Thousand Only) without taking into consideration of the grievous injuries and fracture in left hand of the claimant/appellant herein even they are corroborated by Ex.P2, Ex.P4, Ex.P5 and Ex.P6. Therefore, this Court may be pleased to award the compensation as deemed fit.

5. On the other hand, the learned Counsel for the 1st respondent/Transport Corporation would submit that the claimant/appellant herein was awarded after considering the entire oral and documentary evidence during the trial. Hence, there is no need to interfere with the award passed by the Tribunal.

6. Heard both sides and perused the available materials on records.

7. P.W.1 to P.W.3 were examined and Ex.P.1 to Ex.P6 were marked on the side of the claimant/appellant herein. R.W.1 was examined and none was marked on the side of the respondents before the Tribunal. The 2nd respondent was set ex-parte before the Tribunal as well as before this Court as he was remained absent. The 3rd respondent was impleaded as formal party since the insurer of the Milk Lorry.

8. The factum and the manner of the accident being rash and negligence on the part of the driver of the state-owned-bus under Section 163A is not in dispute. The quantum of the compensation awarded by the Tribunal is alone disputed.

9. After going through the oral and documentary evidences of P.W.2 and P.W.3, Doctors, coupled with the Ex.P2, Ex.P4, Ex.P5 and Ex.P6, this Court is of the considered view that since the claimant/appellant herein suffered of the injuries and the fractures in the road accident and the same is assessed to the extent @30% permanent disability by the Doctor, this Court is inclined to modify the award passed by the Tribunal as details given below:

SL. No.	Particulars	Amount (in Rs.)
1	Permanent disability@30% Rs.1000/- per percentage	30,000.00
2	Loss of Income (3000pmX 6 months)	18,000.00
3	Transport Expenses	3,000.00
4	Extra-nourishment	2,500.00
5	Pain, shock and Sufferings	10,000.00
6	Attendant Charges	3,000.00
1 Amount	Tota	66,500.00

10. Thus, the compensation of Rs.66,500/- (Rupees Sixty Six Thousand and Five Hundred Only) is awarded to the claimant/appellant herein with interest @ 9% per annum from the date of petition till the date of deposit of the award amount. Accordingly, the Transport Corporation/1st respondent herein is directed to deposit the modified award amount within a period of four weeks from the date of receipt of copy of this order after deducting the amount already deposited if any.

11. On such deposit, the appellant/claimant is permitted to withdraw the same along with the interest after paying appropriate Court fee for enhancement of the compensation.

12. 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

//True Copy//

Sub Assistant Registrar

Copy to:

The Additional District Judge cum
Chief Judicial Magistrate's Court,
Motor Accident Claims Tribunal,
Tiruvannamalai District.

Copy to

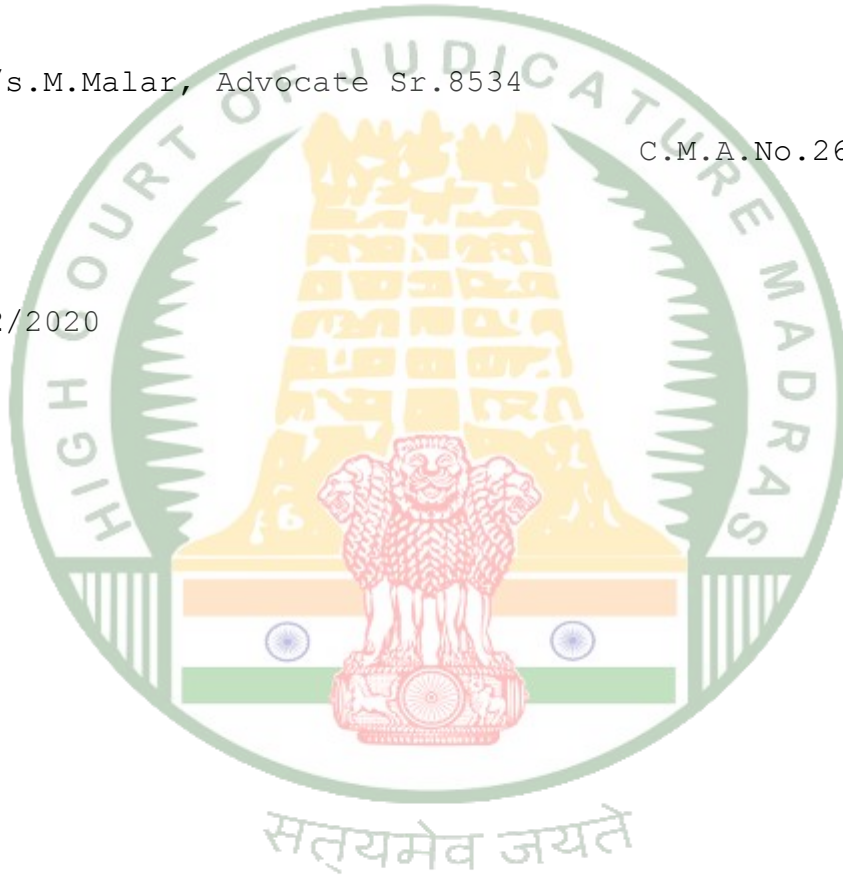
The Section Officer,
V.R.Section, High Court,
Madras.

+1cc to M/s.M.Malar, Advocate Sr.8534

C.M.A.No.2629 of 2011

nrc[co]

srg 22/12/2020



WEB COPY