

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.02.2020

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.1087 of 2014

Anumuthu ... Appellant/Claimant

Vs

The Managing Director,
Tamilnadu State Transport
Corporation Ltd.,
Bharathipuram, Dharmapuri ... Respondent /Respondent

Prayer:

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree made in M.C.O.P.No.819 of 2009 on the file of Motor Accidents Claims Tribunal (Additional Special Judge) at Krishnagiri dated 28.01.2012.

For Appellant : Mr. M.Sriram
For Respondent : Mr.D.Raghu

J U D G M E N T

सत्यमेव जयते

The appellant herein, who is the claimant has preferred this Civil Miscellaneous Appeal against the Judgment and Decree made in M.C.O.P.No.819 of 2009 on the file of Motor Accidents Claims Tribunal (learned Additional Special Judge) at Krishnagiri dated 28.01.2012.

2. The case of the appellant / claimant is that on 14.05.2009, the appellant was riding the TVS Victor bearing Reg.No. TN.24/B.6970 along with his two children as pillion from Bargur to Krishnagiri. The appellant was proceeding on the left side of the road, slowly and cautiously, observing the traffic rules, at that time, opposite to IRT

Polytechnic, the driver of the respondent-bus bearing Regn.No.TN-29/N.2007 had driven the vehicle in a rash and reckless and negligent manner, came from the backside and dashed on the appellant's vehicle and caused the accident. Due to the same, the appellant sustained grievous and multiple injuries all over the body. The Kandhikuppam Police had registered a case against the driver of the said bus in Crime No.163 of 2009. The appellant was aged 37 years and healthy person and he was involved in Building Maison work and was earning a sum of Rs.7,500/- per month. After the said accident, he cannot do the work, as he was doing before, even sitting and walking itself has become difficult. Hence, claiming a compensation of Rs.5,00,000/- the appellant has approached the Tribunal.

3. In contrary, the respondent / Transport Corporation has filed a counter denying all the averments of the appellant. It is the appellant, who had drove the vehicle in a rash and negligent manner without following any Rules and all of a sudden, stopped the vehicle without applying any signals. However, the driver of the bus had applied sudden brake to avoid the accident, but, had hit the appellant and his brother, who is a pillion rider. Hence the accident had occurred only due to the negligent driving of the motor vehicle, therefore, the respondent is not liable to compensate the appellant, thereby seeks to dismiss the claim petition.

4. The Tribunal on considering all the averments, counter averments, the materials available on record and on examining the witnesses had awarded a sum of Rs.91,504/- to the appellant, which is as follows:- Being not satisfied with the said award, the appellant is before this Court.

Sl.No	Name of Heads	Amount awarded by Tribunal
1	Temporary disability	Rs.60,000/-
2	Medical bills	Rs.7,504/-
3	Nutritious food	Rs.2,000/-
4	Attenders Expenses	Rs.2,000/-
5	Pain and Sufferings	Rs.10,000/-
6	Loss of amenities	Rs.10,000/-
TOTAL		Rs.91,504/-

5. The learned counsel for the appellant submits that though the appellant had suffered multiple grievous injuries, the Tribunal has awarded only a meager amount as

compensation. Further, when the Doctor, P.W.2 had averred in his evidence that the appellant could not do any work as earlier and assessed the percentage of disability as 50%, the Tribunal had erred in deducting the percentage of disability from 50% to 30% and hence the same needs interference.

6. The learned counsel for the respondent / corporation reiterates the averments in the counter filed before the Tribunal and further submits that the Tribunal has awarded exorbitant amount as compensation to the appellant and pleaded to dismiss the appeal filed by the appellant.

7. Heard the learned counsel on either side and perused the materials placed on record.

8. From the perusal of the order passed by the court below, it is seen that the court below by taking note of evidence of P.W.3, Doctor, who had fixed 30% disability and by awarding 2% per disability, a sum of Rs.60,000/- was awarded towards disability, this Court taking note of grievous injuries, sustained by the appellant [viz., metal plate has been fixed in the forearm] and that he may not be able to the maison work as he was working before the accident, is inclined to award 3% per disability, accordingly, a sum of Rs.90,000/- [Rs.3,000/- X 3%] is awarded towards temporary disability. Further, the Tribunal has awarded Rs.10,000/- towards pain and sufferings, Rs.10,000/- towards loss of amenities and Rs.7,504/- towards medical expenses, as per bills, in the considered opinion of this Court the same are just and reasonable, hence the said amounts are hereby confirmed. In the absence of any evidence to prove that the appellant was earning a sum of Rs.7,500/- per month, considering the fact that he was working as maison, this Court is of the view that definitely, he would have earned a sum of Rs.5,000/-, therefore, a sum of Rs.5,000/- is hereby fixed as loss of income per month and taking note of the fact that the appellant was admitted at hospital on 14.7.2009 and discharged on 10.09.2009, [Rs.5,000/- X 2 = 10,000] a sum of Rs.10,000/- is hereby awarded towards loss of income for treatment period. That apart, Tribunal has awarded, Rs.2,000/- towards Nutritious food, Rs.2,000/- towards attenders expenses, in the considered opinion of this Court, the same are very meager, considering the nature of injuries and the nature of medical treatment undergone by the appellant, a Rs.3,000/- is hereby awarded for Nutritious food and Rs.3,000/- for attenders expenses. Further, no amount was awarded towards transport expenses by the Tribunal. Hence a sum of Rs.2,000/- is hereby

awarded towards transport expenses. The enhanced amount awarded by this Court is tabulated as under:-

Sl. No	Name of Heads	Amount awarded by Tribunal	Enhanced / confirmed	Amount awarded by this Court
1	Temporary disability	Rs.60,000/-	Enhanced	Rs.90,000/-
2	Loss of income during treatment period	0	Awarded	Rs.10,000/-
3	Medical bills	Rs.7,504/-	Confirmed	Rs.7,504/-
4	Nutritious food	Rs.2,000/-	Enhanced	Rs.3,000/-
5	Attenders Expenses	Rs.2,000/-	Enhanced	Rs.3,000/-
6	Pain and Sufferings	Rs.10,000/-	Confirmed	Rs.10,000/-
7	Loss of amenities	Rs.10,000/-	Confirmed	Rs.10,000/-
8	Transportation charges	0	Awarded	Rs.2,000/-
TOTAL		Rs.91,504/-		Rs.1,35,504/-

In total, a sum of Rs.1,35,504/- is awarded to the appellant with interest at the rate of 6% per annum from the date of claim petition till the date of realisation. The respondent / Transport Corporation is directed to deposit the enhanced award amount to the Credit of M.C.O.P.No.819 of 2009 on the file of the Motor Accident Claims Tribunal (Special Judge,) Krishnagiri, along with interest and costs as determined by this Court, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant is permitted to withdraw the amount, less the amount if any, already withdrawn, by filing an appropriate application before the Court concerned.

With the above said observations and directions, the present Civil Miscellaneous Appeal is allowed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ssd

To

1. The Motor Accidents Claims Tribunal
(Additional Special Judge)
at Krishnagiri.

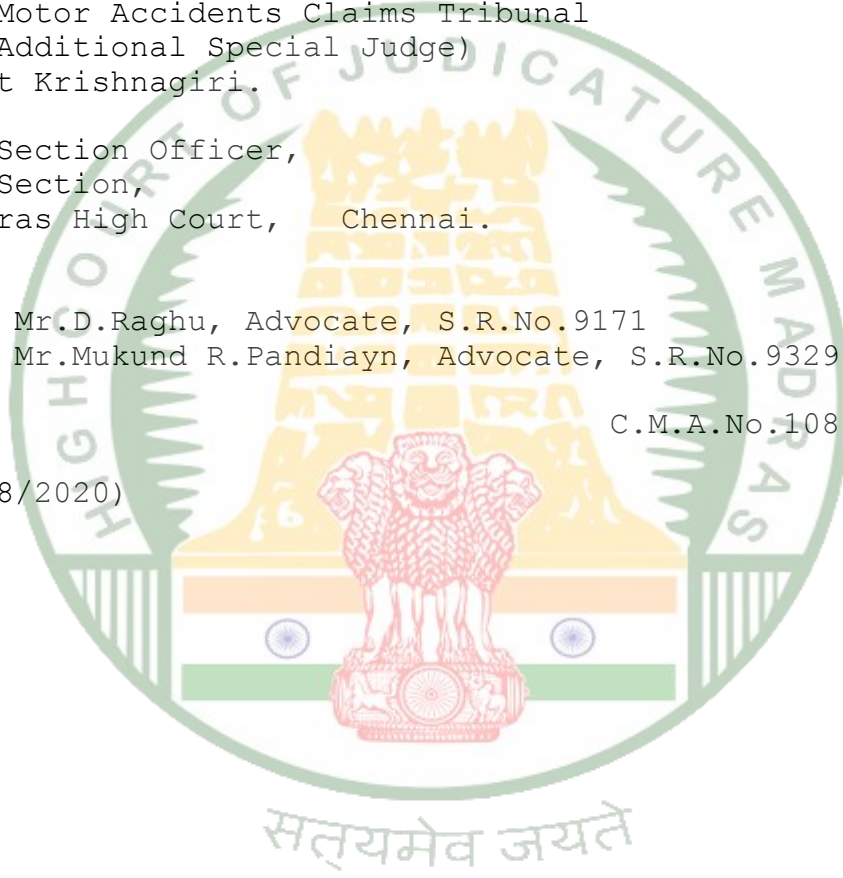
2. The Section Officer,
VR Section,
Madras High Court, Chennai.

+1cc to Mr.D.Raghu, Advocate, S.R.No.9171

+1cc to Mr.Mukund R.Pandiayn, Advocate, S.R.No.9329

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VBA (CO)
CB(21/08/2020)



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