



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED: 23.11.2020

CORAM:

**THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM**  
**C.M.A(MD)NO.1513 of 2008**

**and**  
**M.P(MD)No.2 of 2008**

WEB COPY

The Managing Director,  
Tamil Nadu State Transport Corporation Limited,  
Kumbakonam Division No.4,  
Pudukkottai. :Respondent/Appellant

.vs.

Murugan :Claimant/Respondent

**PRAYER:** Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the award made in M.C.O.P.No.2222 of 2000, dated 20.3.2007, on the file of the Motor Accident Claims Tribunal, Ist Additional District Judge(PCR), Trichy.

For Appellant :Mr.P.Thilak Kumar

For Respondent :Mr.T.Senthilkumar

#### **JUDGMENT**

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This Civil Miscellaneous Appeal is preferred by the Tamil Nadu State Transport Corporation Limited aggrieved over the judgement and award passed by the Motor Accident Claims Tribunal/First Additional District Judge, (PCR), Tiruchirappalli made in M.C.O.P.No.2222 of 2000, dated 20.3.2007, wherein, the Tribunal has awarded a sum of Rs.1,98,240/- against the total claim of Rs.3 lakhs.

2.The case of the claimant is that on 13.7.2000 at 6.30 p.m., he was proceeding in a bicycle from south to north direction to his house and when he was near Avoor Branch Road, the bus bearing Registration NO. TN 45 N 0785 came in a rash and negligent manner and dashed against the claimant and thereby he sustained injuries. However, the appellant/Transport Corporation contended before the Tribunal that the claimant, who was riding his bicycle without noticing the bus, took a left turn and dashed against the bus. Since the injured himself has caused the accident, the Transport Corporation is not liable to pay the compensation.

3.After considering the evidence, the Tribunal held that both the claimant and the driver of the Transport Corporation bus were responsible for the accident and fixed the liability at the ratio of 30:70. Challenging the said award, the present appeal has been filed.



4.Heard Mr.P.Thilak Kumar, learned counsel appearing for the appellant and Mr.T.Senthil Kumar learned counsel for the respondent and perused the materials available on record.

5.The learned counsel appearing for the appellant would argue that the Tribunal has failed to note that the driver of the transport Corporation bus was driving his vehicle very slowly and carefully at the time of accident, but the Tribunal erred in fixing the liability at 70% on the driver of the transport Corporation bus. It is also stated that the evidence of R.W.1 was not properly appreciated by the Tribunal. That apart, the award is excessive

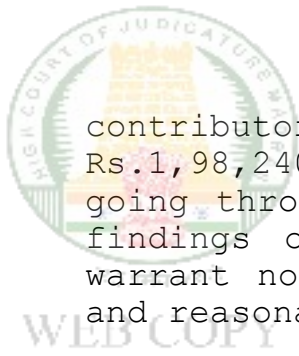
6.The learned counsel appearing for the respondent made submissions in support of the finding of the Tribunal.

7.In the matter on hand, it is seen that P.W.1 has sustained injury in the accident that took place on 13.7.2000. Accepting the testimony of P.W.1 and on the basis of Ex.P1-copy of the First Information Report, Ex.P2- charge sheet filed against the driver of the Transport Corporation and also the evidence of R.W.1, the tribunal came to the conclusion that the driver of the transport Corporation bus as well as the claimant were negligent enough and fixed the negligence at the ratio of 70:30 respectively. In view of the fact that the finding has been arrived at on proper appreciation of evidence, this Court is unable to accept the contention of the learned counsel for the appellant.

8.The claimant has stated that he sustained injuries on his left shoulder, left wrist and also on his right hand elbow. According to the learned counsel, he took treatment as inpatient from 13.7.2000 to 18.7.2000 in Government Hospital at Tricity and thereafter, for about three months, he was taking treatment at Mount Tabour Mission Hospital. His evidence further shows that he was 23 years old at the time of accident and he is a Welder by profession.

9.P.W.2-Dr.G.Rajenderan , after examining the claimant found that he sustained 48% permanent disability. Ex.P3-Wound Certificate, Ex.P:4- Discharge summary, Ex.P5-Medical Bills, Ex.P6-X-Ray and Ex.,P7- Disability Certificate were produced on the side of the claimant to substantiate his case.

10.Taking note of the injury sustained by the claimant and the disability suffered by him at the young age, the Tribunal fixed the income of the claimant at 1300/-p.m., and after deducting 1/3 for his personal expenses held that he was contributing Rs.15,000/- per annum to his family and by applying multiplier '17', arrived at a sum of Rs.2,65,200/- as loss of income. In addition, Rs.5,000/- towards pain and sufferings and Rs.13,000/- towards medical expenses is awarded. In total, the Tribunal has assessed the quantum at Rs.2,83,200/- and 30% deduction was made for his



contributory negligence. The claimant is held entitled to Rs.1,98,240/- along with interest at the rate of 7.5% p.a. After going through the records, this Court is of the opinion that the findings of the Tribunal on negligence as well as the quantum warrant no interference of this Court and it appears to be a fair and reasonable award.

11. In fine, the Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected Miscellaneous Petition is also dismissed

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vsn

**Note :** In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1. The Motor Accident Claims Tribunal,  
(First Additional District Judge(PCR)),  
Tiruchirappalli.
2. The Record Keeper, (2 COPIES)  
Vernacular Section,  
Madurai Bench of Madras High Court,  
Madurai.

**JUDGMENT MADE IN**  
**C.M.A(MD)No.1513 of 2008**  
**23.11.2020**

VB (15.12.2020) 3P 4C