



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.NO.1901 OF 2020

AND

C.M.P.NO.14057 OF 2020

The Managing Director,
Tamil Nadu State Transport Corporation ,
Railway Station Road,
Kumbakonam Taluk & Town,
Tanjavur District.

... Appellant/Respondent

Vs.

Indhumalar

... Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 16.09.2019 made in M.C.O.P.No.194 of 2016 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Nagapatinam.

For Appellant : Mr.D.Venkatachalam

For Respondent : Mr.M.Swaminathan

JUDGMENT

This Appeal has been filed by the Transport Corporation challenging the Award dated 16.09.2019 passed by the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Nagapatinam in M.C.O.P.No.194 of 2016, directing the Appellant/Transport Corporation to pay the Claimant a sum of Rs.6,42,554/- as compensation for the injuries sustained in an accident which occurred on 07.05.2016 involving the bus owned by the Appellant/Transport Corporation.



WEB COURT

2. Before the Tribunal, the Respondent/Claimant claimed a sum of Rs.20,00,000/- as compensation for the injuries sustained by him. On the side of the Respondent/claimant, P.W.1 was examined as witness and Exs.P1 to P24 were marked before the Tribunal. On the side of the, Appellant/Transport Corporation, R.W.1 was examined as witness and no exhibit was marked.

3. On consideration of the oral and documentary evidence available on record, the Tribunal has awarded a sum of Rs.6,42,554 /- as compensation to the Respondent/Claimant. Details of the compensation awarded by the Tribunal under the impugned Award, are as follows :

Heads	Amount awarded by the Tribunal (Rs.)
Disability	1,05,000
Pain and Sufferings	2,00,000
Nutrition	25,000
Attendant charges	25,000
Transport Charges	17,900
Medical charges	1,69,654
Loss of earning	1,00,000
Total	Rs.6,42,554/-

4. Heard the learned counsel for the parties and perused the material documents available on record.

5. The Appellant has challenged the impugned award on the ground that mere registration of an FIR is not enough for holding negligence on their part. Further, the compensation awarded towards Loss of Earning at Rs.1,00,000/-, without any proof is very high and the compensation awarded towards other heads are excessive and the same needs to be reduced.

6. Insofar as the first contention raised by the Appellant is concerned, the Respondent/ Claimant has proved her case by filing an FIR, which has been marked as Ex.P1 and no contra evidence has been produced by the Appellant before the Tribunal to disprove the contention of the Respondent/ Claimant that only due to the rash and negligent driving by the driver of the bus owned by the Appellant/Transport Corporation, the



accident had happened which resulted in injuries sustained by her. Therefore, this Court is of the considered view that there is no basis for the Appellant to contend that mere registration of an FIR against the Driver of the bus without corroboration by any other independent witness.

7. Insofar as the fixation of 35% disability on the Respondent / Claimant is concerned, admittedly due to this accident the Respondent/Claimant has sustained grievous injuries and further the Claimant has filed the Ex.P24-Disability Certificate, issued by Medical Board of Nagapatinam Government Hospital and by considering the same, the Tribunal fixed disability @ 35% on the Respondent/Claimant, which is a just one and the compensation awarded towards disability at Rs.1,05,000/- (Rs.3000 x 35%), cannot be said to be excessive.

8. Taking note of the fact that the Claimant has undergone various treatment and is suffering from lack of hearing ability, which is evident from Ex.P10 - Wound certificate and Ex.P11 &12 - Scan reports, the Claims Tribunal has rightly fixed the compensation towards the pain and sufferings at Rs. 2,00,000/- and the same need not to be interfered with.

9. Though no proof has been produced with respect to the income of the Claimant, taking note of the fact that the claimant has lost her hearing ability of the left ear, the Tribunal has awarded a sum of Rs. 1,00,000/- , which this Court feels is very meagre on account of the injuries sustained by the claimant, who is a college student and due to the alleged accident, her career was also affected and therefore the same does not warrant interference.

10. Considering the nature of injuries sustained and period of treatment undergone by the Respondent/Claimant, the quantum of compensation awarded by the Tribunal to the Respondent/Claimant under various heads, totalling a sum of Rs.6,42,554/-, cannot be considered to be excessive, as alleged by the Appellant/ Transport Corporation. For the foregoing reasons, this Court does not find any merit in this Appeal and accordingly, the Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.



WEB COPY

11. The Appellant/Transport Corporation is directed to deposit the entire amount awarded by the Tribunal together with interest at 7.5% per annum from the date of the Claim Petition till the date of realization, less the amount, if any, already deposited to the credit of M.C.O.P. No.194 of 2016 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Nagapatinam, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the Award amount directly to the Bank account of the Respondent/Claimant through RTGS, within a period of two weeks.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

(arr)/(shk)

To:

1. The Chief Judicial Magistrate,
The Motor accident Claims Tribunal,
Nagapatinam.
2. The Section Officer,
V.R. Section,
High Court of Madras,
Chennai 600 104.

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.43165

C.M.A. No.1901 of 2020

GPL(CO)
RLP(25/10/2021)