



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:4.3.2021

CORAM:

THE HON'BLE Mr.JUSTICE D.KRISHNAKUMAR

Civil Miscellaneous Appeal No.1121 of 2013  
M.P.No.1 of 2013

The Managing Director,  
State Express Transport Corporation Ltd.,  
Pallavan Salai, Chennai 600 002.

...Appellant/Respondent

..Vs..

Venkatachalam

...Respondent/Petitioner

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgement and decree dated 14.6.2010 made in M.C.O.P.No.470 of 2008 on the file of I Additional Subordinate Court (Motor Accidents Claims Tribunal) Salem.

For Appellant : Mr.K.Kathiresan

For Respondent : Notice served

#### JUDGMENT

Brief facts of the claimant's case is as follows:

On 24.11.2007 at about 7.00 p.m. when the claimant was travelling as a pillion rider along with one Boopathy who was riding a motorcycle bearing registration No.TN-28-AB-4439 on the left side of the Attur - Salem main road, near Minnampalli bus stop, the appellant bus bearing registration No.TN-01-N-7069 came with great speed and the bus was driven by its driver in a rash and negligent manner and hit the motorcycle, thereby caused accident. In the impact, the petitioner sustained crushed and multiple grievous injuries all over the body resulting in the petitioner suffered permanent disability and the petitioner was admitted in hospital. Karipalli Police had registered a case in Cr.No.546 of 2007 under Section 279 and 338 of I.P.C. The petitioner has filed a claim petition before the tribunal claiming compensation of Rs.10,00,000/- from the appellant Corporation.



2. On the side of the claimants, P.W.1 to 3 were examined and Ex.P1 to P18 were marked. On the side of the respondent, R.W.1 was examined and no document was marked.

3. Tribunal, based on the oral and documentary evidence adduced by both sides, came to the conclusion that due to rash and negligent driving of the respondent bus by its driver, the accident occurred and awarded compensation of Rs.4,86,521/-to the claimants along with interest at the rate of 7.5% per annum from the date of claim petition till realization. The compensation awarded by the tribunal under various heads are as follows:

| Heads                           | Amount in Rs. |
|---------------------------------|---------------|
| 50% + 15 % Permanent disability | 65,000/-      |
| Loss of income 9000 x 6         | 54,000/-      |
| Transport expenses              | 5,000/-       |
| Extra Nourishment               | 20,000/-      |
| Damages to clothes              | 5,000/-       |
| Medical bills                   | 2,49,931/-    |
| X-Ray bill                      | 460/-         |
| C.T. Scan bill                  | 2,000/-       |
| Scan bill                       | 130/-         |
| Pain & Sufferings               | 30,000/-      |
| Loss of earning capacity        | 30,000/-      |
| Attendant charges               | 10,000/-      |
| Chronic                         | 15,000/-      |
| Total :                         | 4,86,521/-    |

4. Challenging the said award, the respondent Corporation has filed the present appeal on the ground that contributory negligence on the part of the petitioner, the accident occurred and the tribunal has awarded excessive compensation under various heads.

5. Heard the learned counsel appearing for the appellant/Transport Corporation and the learned counsel appearing for the respondent/claimant and perused the materials available on record.

6. According to the learned counsel appearing for the appellant, no negligence on the part of the driver of the transport Corporation, due to the negligence on the part of the



injured, the accident occurred. The tribunal has wrongly fixed the income of the injured as Rs.9000/- p.m. without any basis and excessive amount has been awarded under other heads viz., loss of earning, loss of earning capacity, Extra Nourishment and attendant charges. Therefore, the present appeal has been filed to modify the said award.

7 Considering the oral and documentary evidence, tribunal has awarded compensation of Rs.4,86,501/- to the claimant. Tribunal found that due to the said accident, the petitioner suffered 50% and 15% disability totally 65% permanent disability, tribunal has fixed Rs.1000/- per percentage towards permanent disability. For loss of income for a period of six months, the tribunal has awarded Rs.54,000/-. According to the appellant, no evidence was placed before the tribunal to prove the income of the injured, however, it is stated that he was a building contractor as well as Carpenter. Therefore, there is no excess amount awarded by the tribunal. Insofar as the other heads are concerned, tribunal has awarded reasonable and fair compensation to the injured. Considering at any angle, there is no ground to interfere with the award passed by the tribunal.

8. In view of the above, the appeal stands dismissed. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The I Additional Subordinate Judge  
(Motor Accidents Claims Tribunal) Salem
2. The Section Officer,  
V.R.Section, Madras High Court, Chennai-104.

+1CC to Mr.K.Kathiresan, Advocate, Sr.No.14136

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M.P.No.1 of 2013

GMR (CO)

K.RK. (04.03.2021)