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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 22.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CMA.No.2148 of 2010

The Managing Director,
Tamil Nadu State Transport Corporation,
Kumbakonam. Appellant/Respondent

Vs

Ravichandran ... Respondent/Claimant

This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 11.04.2009 passed by the Motor Accident Claims Tribunal, Subordinate Judge, Mannarkudi in MCOP No.636 of 2006.

For Appellant : Mr.D.Venkatachalam

For respondent : No appearance

J U D G M E N T

Aggrieved over the orders passed by the Tribunal, the Tamil Nadu State Transport Corporation, Kumbakonam has filed the present appeal.

2. The claimant/respondent has filed a claim petition before the Tribunal seeking compensation of Rs.5,00,000/- for the injuries sustained by him in a road accident that took place on 22.07.2005.

3. The brief case of the claimant is as follows. On 22.07.2005, at about 6.15 am, the petitioner was driving a lorry bearing registration No.TN-28-C-9577 along Tirumaiam-irupathur Main Road and while nearing Pattanam Kammayee Corner, a bus bearing registration No.TN.63-N-0826, which came from opposite side, hit the lorry, thereby the claimant sustained grievous injuries all over his body and he was admitted to Tirumayam government Hospital, where from, referred to Tanjavur Medical College Hospital. According to the claimant, the rash and negligent driving of the driver of the bus was the cause of



accident and since the respondent is the owner of the bus, the respondent is liable to pay compensation to the claimant.

4. Before Tribunal, on the side of the claimant, the claimant and Dr.Rajagopal were examined as PW1 and PW2 respectively and Ex.P1 to Ex.P8 were marked. On the side of the respondent, one witness was examined as RW1 and no documentary evidence was adduced.

5. After analysing the evidence on record, the Tribunal awarded a sum of Rs.95,000/- as compensation to the claimant under various heads as extracted hereunder.

Sl No	Heads	Amount in Rs.
1	Permanent Disability (59 x 1000)	59,000
2	Pain and sufferings	15,000
3	Loss of income	15,000
4	other expenditure	6,000
	Total	95,000

Aggrieved over the orders passed by the Tribunal the respondent/ Tamil Nadu State Transport Corporation has filed the appeal.

6. Heard the learned counsel for the appellant and I have perused the materials on record. None appeared for the respondent/claimant.

7. The learned counsel appearing for the appellant/ Tamil Nadu State Transport Corporation submitted that the Trial Court has erroneously accepted 59% permanent disability, which is on the higher side and the Trial Court has not considered the fact that the claimant has not impleaded the driver as well as the insurer of the vehicle in the claim petition. He further submitted that the Trial Court has awarded an excess amount of Rs.95,000/- as compensation to claimant and also awarded 9% interest per annum for the said amount and hence, the orders passed by the Trial Court warrants interference by this court.

8. Now the points for determination is
- (i) Whether the compensation awarded by the Tribunal is an excessive?
 - (ii) Whether the interest awarded by the Tribunal is an excessive?

9. Point No.1:

A perusal of the orders passed by the Tribunal reveals that it has considered the Disability Certificate Ex.P7 issued



to the claimant for his disablement in which, the disablement of the claimant was assessed to 59%. The claimant has also examined Dr.Rajagopal as PW2, who has given disability certificate Ex.P7 to the claimant and based on the statement given by him and the Disability Certificate Ex.P7, the Trial Court has fixed the 'Permanent Disability' of the claimant as 59% and by calculating Rs.1,000/- per percentage, a sum of Rs.59,000/- was awarded towards " Permanent Disability ". Further by considering the fact that the claimant has sustained a fracture on his left side tuber bone and right side tibia bone, the Tribunal has awarded a sum of Rs.15,000/- towards " Pain and Sufferings" and also a sum of Rs.15,000/- towards " Loss of Income". Therefore the above amounts awarded by the Tribunal is perfectly just and reasonable and this court does not find any fault on it. Therefore, the grounds raised by the appellant that the compensation awarded by the Tribunal is on the higher side is liable to be rejected.

10. Point No.2

The contention of the appellant is that the Tribunal has awarded 9% interest on the compensation amount which is on the higher side and hence, the same is liable to be scaled down. In the light of the decisions rendered by the Honourable Supreme Court as well as by this Court in various cases, the interest awarded by the Tribunal is scaled down from 9% to 7.5% and the respondent is liable to pay interest at the rate of 7.5% on the compensation amount of Rs.95,000/- from the date of claim petition till the date of payment. The point is answered accordingly.

11. In the result,

(i) the Civil Miscellaneous Appeal is partly allowed.
No costs.

(ii)The appellant/Tamil Nadu State Transport Corporation is directed to deposit the entire compensation amount as awarded by the Tribunal, with interest at the rate of 7.5% p.a. from the date of claim petition till the date of deposit, less already deposited, within a period of 6 weeks from the date of receipt of a copy of this order.

(iii) On such deposit being made by the appellant/Tamil Nau State Transport Corporation, the claimant is at liberty to withdraw the same, after following due process of law.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

mst



To
The Subordinate Judge,
Motor Accident Claims Tribunal,
Mannargudi.

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+1CC to Mr.A.Gokulakrishnan, Advocate, Sr.No.3628

+1CC to Mr.D.Venkatachalam, Advocate, Sr.No.3666

CMA. No.2148 of 2010

VSN-II (CO)

K.RK. (15.09.2021)