



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.10.2021

CORAM:

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.3027 of 2009

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Division - II,
Salem.

...Appellant/5th Respondent

Vs.

- | | |
|--|--|
| 1. Minor J.Vimal Raj | ..1 st Respondent/Claimant |
| 2. V.Nandagopal | ..2 nd Respondent/1 st Respondent |
| 3. Vanmathi Nandagopal | ..3 rd Respondent/2 nd Respondent |
| 4. The New India Assurance Company Ltd.,
490-A, First Floor, Avinashi Road,
(Nava India near), Coimbatore - 4. | ..4 th Respondent/3 rd Respondent |
| 5. E.Subramani | ...5 th Respondent/4 th Respondent |

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 seeking to set aside the Award and Decree dated 09.04.2007, made in M.A.C.T.O.P.No.971 of 2004, on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Coimbatore.

For Appellant : Mr.D.Raghu

J U D G M E N T

(The case has been heard through video conference)

This appeal has been filed by the transport corporation challenging the Award dated 09.04.2007, passed by the Motor Accidents Claims Tribunal, Subordinate Court, Coimbatore in M.C.O.P.No.971 of 2004.

2. The appellant transport corporation has challenged the impugned award questioning the determination of composite negligence by the Tribunal at the ratio of 50 : 50 between the bus owned by the appellant transport corporation and the vehicle insured with the fourth respondent. The appellant has also questioned the quantum of compensation awarded by the Tribunal.



3. The Tribunal under the impugned award directed the appellant transport corporation to pay 50% of the assessed compensation by fixing 50% composite negligence on the part of the driver of the bus owned by the appellant transport corporation. The total compensation as assessed by the Tribunal under the impugned award is as follows:

Sl.No .	Heads	Amount in Rs.
1.	Medical expenses	3,45,150
2.	Future medical expenses	1,30,000
3.	Transportation	5,000
4.	Extra nourishment	5,000
5.	Mental agony	5,000
6.	Pain and sufferings	40,000
7.	Disability	40,000
	Total	5,70,150

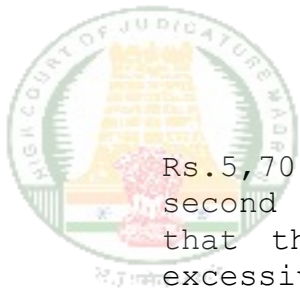
4. Two vehicle were involved in the accident, which resulted in the first respondent/claimant sustaining the following injuries:

"1. Ecchymosis with Subconjunctual Haemorrhage right eye.

2. Abrasion 2x1 cm over the left thigh above the knee joint."

5. Nature of injuries sustained by the first respondent/claimant in the accident which happened on 03.05.2004, has not been disputed by the appellant transport corporation. The Tribunal has awarded a total compensation of Rs.5,70,150/-. The Tribunal awarded a sum of Rs.3,45,150/- towards medical expenses (supported by medical bills which have been marked as exhibits before the Tribunal), Rs.1,30,000/- was awarded towards future medical expenses, Rs.5,000/- was awarded towards transport expenses, Rs.5,000/- was awarded towards extra nourishment, Rs.5,000/- was awarded towards mental agony, Rs.40,000/- was awarded towards pain and sufferings and Rs.40,000/- was awarded towards disability.

6. This Court is of the considered view that considering the nature of injuries sustained by the first respondent/claimant as referred to supra, the total compensation awarded by the Tribunal to the first respondent/claimant at



Rs.5,70,150/- cannot be considered to be excessive. Hence, the second contention raised by the appellant transport corporation that the quantum of compensation awarded by the Tribunal is excessive, is rejected by this Court.

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7. In so far as the fixation of composite negligence on the part of the driver of the bus owned by the appellant transport corporation and the driver of the opposite vehicle insured with the fourth respondent/insurance company in the ratio of 50 : 50 is concerned, is also a correct assessment made by the Tribunal as it is a head on collusion between the two vehicles. No contra evidence has been produced by the appellant transport corporation before the Tribunal to disprove that their driver was equally responsible for the cause of the accident. This Court does not find any infirmity in the findings of the Tribunal as regards the negligence on the part of the driver of the bus owned by the appellant transport corporation. Hence, the first contention raised by the appellant transport corporation in this appeal is also rejected.

8. For the foregoing reasons, there is no merit in this appeal and accordingly this appeal is dismissed. The appellant transport corporation is directed to deposit the award amount along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.971 of 2004, on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Coimbatore. On such deposit of the compensation amount, the first respondent/claimant, who is now a major, is permitted to withdraw the award amount along with interest and costs, less the amount, if any, already withdrawn by making necessary applications before the Tribunal. No costs.

s/d-
Assistant Registrar

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Sub-Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,
Subordinate Court, Coimbatore.



2. The Section Officer,
VR Section, High Court,
Madras 104.

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+1 CC to Mr.D.Raghu, Advocate sr 53072.

C.M.A.No.3027 of 2009

JPL (CO)
SP (15/12/2021)