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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2021

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

C.M.A. No.1200 of 2021 and C.M.P.No.6087 of 2021
and Cross Objection No.69 of 2021

The Managing Director
Tamil Nadu State Transport
Corporation Limited,
Kancheepuram Region - 631 502.

...Appellant/R1 in
C.M.A. No.1200 of 2021

Vs.

..R1/Petitioner

1.S.Guruprasad
2.M.R.Govindan
3.The New India Assurance Co. Ltd.,
No.45, Moore Street
5th Floor, Chennai - 600 001.

...RR2 & 3/RR2 & 3 in
C.M.A. No.1200 of 2021

S.Guruprasad

...Cross Appellant
in Cross Objection No.69 of 2021

vs.

1.The Managing Director
Tamil Nadu State Transport
Corporation Limited,
Kancheepuram Region - 631 502.

..R1/Appellant

2.M.R.Govindan

3.The New India Assurance Co. Ltd.,
No.45, Moore Street
5th Floor, Chennai - 600 001.

...RR2 & 3/RR2 & 3 in
Cross Objection No.69 of 2021

Prayer in C.M.A. No.1200 of 2021: Civil Miscellaneous Appeal
filed under Section 173 of Motor Vehicle Act, 1988 against the
judgment and decree dated 18.10.2019 passed in M.C.O.P.No.6623
of 2015 on the file of the Motor Accidents Claims Tribunal, (II-
Small Causes Court), Chennai.



Prayer in Cross Objection No.69 of 2021: Memorandum of Cross Objections filed under Order 41, Rule 22 of the CPC to enhance the award amount from Rs.31,52,200/- to Rs.65,00,000/- or more with interest and costs and set aside the order passed by the trial Court in so far as the same is against the claim amount.

In C.M.A. No.1200 of 2021:

For Appellant	: Mr.C.S.K.Sathish
For Respondents	
for R1	: Mr.Anand
for R3	: Mr.R.Sivakumar
R2	: Not Ready Notice

In Cross Objection No.69 of 2021:

For Cross Appellant	: Mr.Anand
For Respondents	
for R1	: Mr.C.S.K.Sathish
for R3	: Mr.R.Sivakumar

C O M M O N J U D G M E N T

[Judgment of the Court was delivered by V.SIVAGNANAM, J]

The appellant in C.M.A.No.1200 of 2021 is before this Court with a prayer to set aside the judgment and decree dated 18.10.2019 passed in M.C.O.P.No.6623 of 2015 on the file of the Motor Accidents Claims Tribunal, (II-Small Causes Court), Chennai.

2. Not being satisfied with the quantum of compensation awarded by the Motor Accidents Claims Tribunal, (II-Small Causes Court), Chennai, in MCOP.No.6623 of 2015, dated 18.10.2019, the claimant has come up with the Cross Objection No.69 of 2021.

3.For the sake of convenience, parties are hereby referred to as per their ranking in the claim petition.

4. It is the case of the claimant, that on 11.03.2015 at about 00.15 hours, while he was traveling as a passenger in the 1st respondent Transport Corporation bus bearing Registration No.TN 21 N 15765 from Pondicherry to Chennai, near Krishnan Karanai, At ECR Road, the driver of the bus drove the vehicle in a rash and negligent manner, endangering to the human safety, collided with the on going Taras Lorry bearing Registration No.TN 19 M 8570. The said Taras Lorry was proceeding on the same direction. Due to the impact, the claimant sustained grievous and multiple injuries all over the body. Hence, the claimant laid a claim petition claiming a sum of Rs.65,00,000/- as compensation.



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5. In the claim petition, the Transport Corporation as well as the Insurance Company filed their respective counter statements disputing the manner of accident as projected by the claimant, age, occupation and income of the claimant and its liability to pay the compensation.

6. In order to prove the claim before the Tribunal, on the side of the claimant, P.Ws.1 to 3 were examined and Exs.P.1 to 38 were marked. On the side of the respondents, R.Ws.1 and 2 were examined and Exs.R.1 and 2 were marked.

7. The Tribunal, after analysing the entire evidence came to the conclusion that the accident had occurred due to the rash and negligent driving of the driver of the 1st respondent bus. By coming to such conclusion, the Tribunal passed an award for a sum of Rs.31,52,200/- as compensation and directed the 1st respondent-Transport Corporation to pay the above compensation.

8. Both the Civil Miscellaneous Appeal and the Cross Objection petition have been filed, only challenging the quantum, hence the other issues need not be dealt with herein.

9. Heard both sides and perused the materials available on record.

10. Though the learned counsel for the respondents contended that the award is on the higher side and it requires reduction, perusal of the records reveal that the Tribunal on proper appreciation of evidence of P.W.1 and the appointment order-Ex.P.21, has rightly fixed the monthly salary of the claimant as Rs.16,350/- and also applied multiplier with regard to disability and thus awarded a just and reasonable compensation. The Tribunal has awarded the compensation under the following heads as follows:-

"In the result, the compensation is awarded as below:-

1. Functional Disability	-	Rs.15,69,600/-
2. Disability	-	Rs.60,000/-
3. Pain and suffering	-	Rs.4,00,000/-
4. Extra nourishment	-	Rs.75,000/-
5. Transport to Hospital	-	Rs.50,000/-
6. Damages to clothes	-	Rs.1,000/-
7. Attender charges	-	Rs.10,600/-
8. Medical expenses	-	Rs.7,70,556/-
9. Future Medical Expenses	-	Rs.1,00,000/-
10. Loss of Income	-	Rs.65,400/-
11. Loss of Amenities	-	Rs.50,000/-
Total	-	Rs.31,52,156/-



11. We find no reason to interfere with the conclusion reached by the Tribunal. Hence, the Civil Miscellaneous Appeal and the Cross Objection petition are liable to be dismissed.

12. In such view of the matter, the Civil Miscellaneous Appeal and the Cross Objection petition are dismissed as devoid of merits. No costs. Consequently, connected Miscellaneous Petition is closed. The 1st respondent-Tamil Nadu State Transport Corporation is directed to deposit the entire award amount with accrued interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the claimant is permitted to withdraw the entire amount, less the amount already withdrawn, if any, together with interest and costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To
1. The II Judge
Motor Accidents Claims Tribunal,
(II Small Causes Court) Chennai.

Copy to
The Section Officer,
V.R. Section,
High Court, Madras.

+1 CC to Mr. Anand and Surya, Advocate sr 52486
+1 CC to Mr. R. Sivakumar, Advocate sr 52319.

C.M.A. No.1200 of 2021 and C.M.P.No.6087 of 2021
and Cross Objection No.69 of 2021

EV(CO)
SP(12/11/2021)