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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.08.2021

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

CMA No.3510 of 2019 and
CMP No.20566 of 2019

The Managing Director,
Tamilnadu State Transport,
Corp Kumbakonam Division-I Ltd.,
Railway Station New Road,
Kumbakonam 612 001.

... Appellant/Respondent

Vs.

A. Sundaramoorthy

... Respondent/Petitioner

Prayer: Civil Miscellaneous Petitions filed under Section 173 of the Motor Vehicles Act against the decree and judgment dated 02.11.2018 passed in M.C.O.P.No.3186 of 2013 by the Principal Subordinate Judge, Motor Accident Claims Tribunal, Cuddalore.

For Appellant : Mr.D.Venkatachalam

For Respondent : Mrs.Ramya V. Rao

O R D E R

Aggrieved over the order passed by the Tribunal, the Tamilnadu State Transport Corporation has filed the present Appeal to reduce the compensation awarded by the Tribunal.

2. The respondent/claimant has filed a claim petition seeking compensation of a sum of Rs.25,00,000/- for the injuries sustained by him in a road accident that occurred on 09.08.2013.

3. Brief case of the claimant is as follows:

On 09.08.2013 at 11.45 a.m., when the claimant was riding his motorcycle bearing registration No.TN-51-AX-0069 and while nearing Annakovil Arch, a speedy bus bearing registration No.TN68-N-0437 belonging to the Appellant Transport Corporation hit the motorcycle, thereby, he was thrown out of



his motorcycle and sustained grievous injuries and fractures all over his body. Immediately he was admitted to Government Hospital, Sirkali and then transferred to Sugam Multi Specialty Hospital, Kumbakonam for advanced treatment. According to the claimant, the rash and negligent driving of the driver of the bus was the cause of accident and hence, the Appellant Transport Corporation is liable to pay compensation to the claimant.

4. Before the Tribunal, on the side of the claimant, the claimant was examined as PW1 and Exs.P1 to P6 were marked. On the side of the respondent, no oral evidence was let in and no documentary evidence was marked. The Disability Certificate of the Claimant was marked as Ex.C1.

5. After analysing the evidence on record, the Tribunal arrived at a sum of Rs.4,69,800/- as compensation and after deducting contributory negligence at 10%, it has awarded, a sum of Rs.4,22,820/- as compensation to the claimant and directed the Transport Corporation to pay the same to the claimant. Details of compensation awarded by the Tribunal are extracted hereunder.

Sl No	Heads	Amount in Rs.
1	Permanent disability (6000 x 12x 20% x 17 = 2,44,800)	2,44,800/-
2	Pain and suffering	50,000/-
3	Loss of life and amenities	50,000/-
4	Attender charges	5,000/-
5	Transportation charges	5,000/-
6	Loss of income	60,000/-
7	Future medical expenses	25,000/-
8	Extra nourishment	5,000/-
9	Damages to clothes	1,000/-
10	Medical bills	24,000/-
11	Total	4,69,800/-
	After deducting contributory negligence at 10% (46,980)	4,22,820/-

6. The learned counsel appearing for the appellant/ Transport Corporation submitted that the entire negligence was only on the part of the claimant, who drove the motorcycle in a



rash and negligent manner, which resulted in a head on collision. However, the Tribunal has fixed only 10% contributory negligence on the claimant. He contended that the compensation awarded under the other heads is also too high and that and without any basis, the Tribunal has awarded a sum of Rs.25,000/- towards " Future medical bills". Hence, the learned counsel prayed to scale down the compensation awarded by the Tribunal.

7. It is not a dispute that the accident occurred on 09.08.2015 and that the claimant sustained grievous injuries all over his body. The contention of the claimant is that, a surgery was done in his right hand and that, he has permanent disability. However, the Appellant/ Transport Corporation has raised a ground that, it is only due to the rash and negligent driving of the claimant, the accident was occurred and hence, the appellant is not liable to pay compensation to the claimant for his own negligence.

8. The Tribunal has fixed 10% contributory negligence on the part of the claimant. Since this is a case of head on collision, the contributory negligence on the part of the claimant has to be taken into account and accordingly, the contributory negligence on the part of the claimant fixed by the Tribunal at 10% is re-fixed at 20%. Further, the Tribunal has awarded a sum of Rs.25,000/- towards future medical expenses. Considering the facts of the case, the same is reduced to Rs.15,000/-. As far as the other heads are concerned, the Tribunal has awarded a just and reasonable compensation and the same does not warrant any interference by this court. Accordingly, the compensation awarded by the Tribunal is modified as detailed below:

Sl. No	Heads	Compensation Awarded by the Tribunal	Revised Compensation Awarded by this court
1	Permanent Disability	2,44,800/-	2,44,800/-
2	Pain and suffering	50,000/-	50,000/-
3	Loss of life and amenities	50,000/-	50,000/-
4	Attender charges	5,000/-	5,000/-
5	Transportation charges	5,000/-	5,000/-
6	Loss of income	60,000/-	60,000/-



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Sl. No	Heads	Compensation Awarded by the Tribunal	Revised Compensation Awarded by this court
7	Future medical expenses	25,000/-	15,000/-
8	Extra nourishment	5,000/-	5,000/-
9	Damages to clothes	1,000/-	1,000/-
10	Medical bills	24,000/-	24,000/-
	Total	4,69,800/-	4,59,800/-
	After deducting contributory negligence	4,22,820/-	3,67,840/-

9. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed and the award passed by the Tribunal is scaled down from Rs.4,22,820/- to Rs.3,67,840/- No costs. Consequently, connected civil miscellaneous petition is closed.

(ii) The appellant is directed to deposit the revised compensation of Rs.3,67,840/- with interest at the rate of 7.5% p.a. from the date of claim petition till the date of deposit, less the amount if already deposited, within a period of two months from the date of receipt of a copy of this order.

(iii) On such deposit being made by the Appellant Transport Corporation, the claimant is entitled to withdraw the same, after following due process of law.

SD/-

ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

mst
To

The Principal Subordinate Judge,
Motor Accident Claims Tribunal,
Cuddalore.



Copy to

The Section officer,
VR Section, High Court, Madras.

+1cc to Mr.D.Venkatachalam, Advocate Sr.41391

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