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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1320 of 2021

The Managing Director,  
Tamil Nadu State Transport Corporation Limited,  
Bharathipuram,  
Dharmapuri - 636 705.

.. Appellant/Respondent

Vs.

Siddaraji

.. Respondent/Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 10.04.2014 made in M.C.O.P.No.222 of 2012 on the file of the Motor Accidents Claims Tribunal, Sub Court, Hosur.

For Appellant : Mr.D.Venkatachalam

#### J U D G M E N T

The matter is heard through "Video Conferencing/Hybrid mode".

2.This Civil Miscellaneous Appeal has been filed challenging the quantum of compensation granted by the Tribunal in the award dated 10.04.2014 made in M.C.O.P.No.222 of 2012 on the file of the Motor Accidents Claims Tribunal, Sub Court, Hosur.

3.The appellant is the respondent in M.C.O.P.No.222 of 2012 on the file of the Motor Accidents Claims Tribunal, Sub Court, Hosur. The respondent filed the above said claim petition claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by her in the accident that took place on 02.12.2011.

4.According to respondent, on 02.12.2011, at about 01.30 hours, she was traveling in the Tempo bearing Registration No.KA 05 C 8732 on the Krishnagiri - Hosur Main Road, near Perndapalli bridge, a lorry was proceeding ahead of the tempo. In view of the same, the driver of the tempo drove the same slowly behind the lorry. At that time, the driver of the bus bearing Registration No.TN 29 N 1782 who was proceeding in the same direction towards Hosur, drove the same in a rash and negligent



manner, dashed on the backside of the tempo and caused the accident. In the accident, the respondent sustained multiple grievous injuries all over the body. Immediately after the accident, she was taken to Government Hospital, Hosur for first aid treatment. Thereafter she has taken outpatient treatment from Dr.D.V.Gandhi, Orthopaedic Surgeon, Taluk Office Road, Hosur for three months. Therefore, the respondent filed the said claim petition claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by her against the appellant-Transport Corporation.

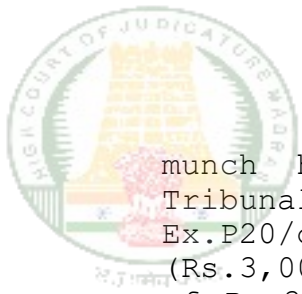
5.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by the driver of the bus belonging to appellant-Transport Corporation and directed the appellant to pay a sum of Rs.2,34,000/- as compensation to the respondent.

6.Questioning the quantum of compensation awarded by the Tribunal in the award dated 10.04.2014 made in M.C.O.P.No.222 of 2012, the appellant-Transport Corporation has come out with the present appeal.

7.The learned counsel appearing for the appellant contended that respondent failed to prove her age, avocation and income. In the absence of any material evidence with regard to avocation and income, a sum of Rs.6,000/- per month fixed by the Tribunal as notional income of the respondent is excessive. The Tribunal ought not to have accepted the evidence of P.W.7/Doctor that the respondent suffered 30% disability as the same is on the higher side. The Tribunal ought not to have awarded a sum of Rs.3,000/- per percentage of disability. The amounts awarded by the Tribunal towards pain and sufferings, attendant charges, loss of income, social enjoyment and extra nourishment are excessive and prayed for setting aside the award passed by the Tribunal.

8.Heard the learned counsel appearing for the appellant-Transport Corporation and perused the entire materials on record.

9.From the materials available on record, it is seen that it is the case of the respondent that in the accident she sustained diffused contusion and tenderness present over the left zygoma region, severe pain and tenderness in the base of the nose with bleeding in the nostrils and multiple injuries all over the body. To prove the nature of injuries and disability suffered by her, the respondent examined herself as P.W.4 and examined P.W.7/Doctor. P.W.7/Doctor examined the respondent and certified that respondent suffered 30% disability and issued Ex.P20/disability certificate to that effect. P.W.7/Doctor further deposed that fracture of nasal bone with left zygoma malunited by 2 degree and she would be finding difficult to



munch hard food, her nose appear ugly and tightened. The Tribunal considering the evidence of P.W.7/Doctor and Ex.P20/disability certificate, awarded a sum of Rs.90,000/- (Rs.3,000/- X 30% of disability) for 30% disability at the rate of Rs.3,000/- per percentage of disability and the same is not excessive. At the time of accident, the respondent was a Coolie aged 22 years and was earning a sum of Rs.9,000/- per month. The respondent has not filed any document to prove her avocation and income. In the absence of any material evidence with regard to avocation and income, the Tribunal considering the age and nature of work done by the respondent, fixed a sum of Rs.6,000/- per month as notional income of the respondent and awarded a sum of Rs.36,000/- (Rs.6,000/- X 6 months) for loss of income for six months and the same is not excessive. Immediately after the accident, she was taken to Government Hospital, Hosur for first aid treatment and thereafter she has taken outpatient treatment from Dr.D.V.Gandhi, Orthopaedic Surgeon, Taluk Office Road, Hosur for three months. Considering the nature of injuries, evidence of P.W.7/Doctor, period of treatment taken and the disability suffered by the respondent and the fact that due to the injuries she would be facing discomfort in her life, the amounts awarded by the Tribunal under other heads are not excessive warranting interference by this Court.

10.In the result, this Civil Miscellaneous Appeal is dismissed and a sum of Rs.2,34,000/- awarded by the Tribunal as compensation to the respondent, along with interest and costs is confirmed. The appellant-Transport Corporation is directed to deposit the award amount along with interest and costs, less the amount if any already deposited, within a period of twelve weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.222 of 2012 on the file of the Motor Accidents Claims Tribunal, Sub Court, Hosur. On such deposit, the respondent is permitted to withdraw the award amount along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. No costs.

Sd/-

Deputy Registrar(Spl cell CJ conf)

//True Copy//

Sub Assistant Registrar

krk  
To

1.The Motor Accidents Claims Tribunal,  
Subordinate Judge,  
Hosur.



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

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+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.21101

C.M.A.No.1320 of 2021

VBM(CO)  
CB(26/10/2021)