



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.2295 of 2021

and

C.M.P.No.12749 of 2021

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Karaikudi Region,
Kumbakonam Branch at
Thuraimangalam depo,
Perambalur District.

... Appellant/Respondent

Vs.

Thalif Ali

... Respondent/Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 12.02.2021 made in M.C.O.P.No.609 of 2018 on the file of the Motor Accidents Claims Tribunal, Sessions Judge, Mahila Court, Perambalur.

For Appellant : Mr.D.Venkatachalam

J U D G M E N T

This Civil Miscellaneous Appeal has been filed to set aside the award dated 12.02.2021 made in M.C.O.P.No.609 of 2018 on the file of the Motor Accidents Claims Tribunal, Sessions Judge, Mahila Court, Perambalur.

2. The appellant is the respondent in M.C.O.P.No.609 of 2018 on the file of the Motor Accidents Claims Tribunal, Sessions Judge, Mahila Court, Perambalur. The respondent filed the above said claim petition claiming a sum of Rs.79,00,000/- as compensation for the injuries sustained by him in the accident that took place on 13.05.2018.



3. According to the respondent, on 13.05.2018 at about 6:30 p.m. when he was travelling in a Maruthi Car bearing Reg.No.TN 45 BF 0259, at that time, the bus belonging to the Transport Corporation bearing Reg.No. TN 63 N 1536 driven by its driver, in a rash and negligent manner, came at a great speed from the opposite direction turned from left side to right side and dashed against the Maruthi Car. During the accident, there were two persons inside the car. Due to the accident, the claimant sustained fracture in his left hand wrist, lacerated injury in the right knee, right ankle, left knee, stitched wound in the upper lip, lacerated injury on the back side of the head and several abrasions all over the body and immediately he was admitted at Pudukottai Government Hospital. For further treatment he was admitted at Trichy Apollo Hospital for two months and he had taken treatment in another private hospital also. Therefore, the respondent filed the claim petition claiming a sum of Rs.79,00,000/- as compensation for the injuries sustained by him against the appellant-Transport Corporation.

4. 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.8,98,000/- as compensation to the respondent.

5. Questioning the quantum of compensation awarded by the Tribunal by the award dated 12.02.2021 made in M.C.O.P.No.609 of 2018, the appellant-Transport Corporation has come up with the present appeal.

6. The learned counsel appearing for the appellant contended that the disability fixed by the Tribunal for the respondent at 80% is highly excessive. He further contended that there is difference in the amount claimed under the medical bills. In any event, the total compensation awarded by the Tribunal at Rs.8,98,000/- is highly excessive and prayed for setting aside the award passed by the Tribunal.

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

8. It is a case of injury and the disability sustained by the victim is 80% as per the District Medical Board and the said exhibit was marked as Ex.X1 and the Tribunal, taking note of the percentage of disability, granted Rs.3,000/- per percentage



and awarded the compensation of Rs.2,40,000/-. A reading of the award would make it very clear that the claimant was in the hospital at three different periods as could be seen from Exs.P.14, 15 and 18. Though the contention of the appellant that there is a difference with regard to Medical Bills to an extent of Rs.6,23,000/-, and the monthly income fixed at Rs.5,000/- and the over all compensation of Rs.8,98,000/- is on the higher side, even assuming for the sake of argument that there is a difference in Medical Bills, as stated by the appellant supra, from the Medical Board report it appears that the victim has suffered 80% disability which is nothing but functional disability and for the accident that took place in the year 2018, the Tribunal has taken income at Rs.5,000/-. Even assuming for the sake of argument the monthly income is taken as Rs.10,000/- the Tribunal should have adopted multiplier method. But in the present case on hand, the Tribunal has granted only a meagre compensation of Rs.1,38,255/-. This Court is of the view that the Tribunal should have adopted multiplier method, as it appears from the report that there is a functional disability and therefore, the amount now ordered can be adjusted, if any appeal is preferred by the victim. Hence I find there is no reason to interfere with the award of the Tribunal.

9.In the result, this Civil Miscellaneous Appeal is dismissed and a sum of Rs.8,98,000/- 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.609 of 2018 on the file of the Motor Accidents Claims Tribunal, Sessions Judge, Mahila Court, Perambalur. 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/-

ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR



dpq
To

The Motor Accidents Claims Tribunal,
Sessions Judge, Mahila Court,
Perambalur.

Copy to

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

+lcc to Mr.D.Venkatachalam, Advocate Sr.40141

C.M.A.No.2295 of 2021
and CMP.No.12749 of 2021

smI[co]
srg 11/03/2022