



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2021

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.2311 of 2021 and
C.M.P.No.12870 of 2021

The Managing Director,
State Transport Corporation,
Kumbakonam, Trichy - 620 001.

...Appellant/Respondent

Vs.

B. Jawahar

..Respondent/Claimant

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 18.12.2020 made in M.C.O.P.No. 77 of 2014, on the file of the Motor Accident Claims Tribunal, Special Sub Judge I, Salem.

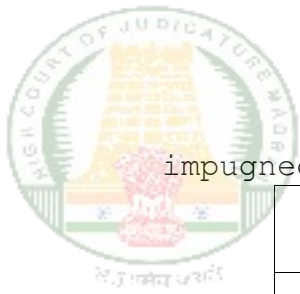
For Appellant: Mr.D.Venkatachalam

J U D G M E N T

This Appeal has been filed by the Transport Corporation challenging the Award dated 18.12.2020 passed by the Motor Accident Claims Tribunal, Special Sub Judge I, Salem, in M.C.O.P.No. 77 of 2014, directing the Appellant/Transport Corporation to pay the Claimant a sum of Rs.1,42,824/- as compensation for the injuries sustained in an accident which occurred on 02.06.2013 involving the bus owned by the Appellant/Transport Corporation.

2. Before the Tribunal, the Respondent/Claimant claimed a sum of Rs.10,00,000 /- as compensation for the injuries sustained by him. On the side of the Respondent/Claimant, P.W.1 to P.W.3 were examined as witnesses and Exs.P1 to P19 were marked before the Tribunal. On the side of the Appellant/Transport Corporation, R.W.1 was examined as witness and no evidence was marked. Ex.C1 was marked as Court exhibit.

3. On consideration of the oral and documentary evidence available on record, the Tribunal has awarded a sum of Rs.1,42,824/- as compensation to the Respondent/Claimant. Details of the compensation awarded by the Tribunal under the



impugned Award, are as follows :

Heads	Amount awarded by the Tribunal (Rs.)
Pain & Sufferings	50,000
Loss of Income	18,000
Medical Expenses	76,530
Transport Expenses	6,000
Extra Nourishment	6,000
Attender charges	6,000
Loss of Amenities	15,000
Damages	1,000
Total	Rs.1,78,530/-
Less 20% contributory negligence	Rs.35,706/-
Total	Rs.1,42,824/-

4. Heard the learned counsel for the parties and perused the material documents available on record.

5. The Appellant has challenged the impugned award on the ground that the Tribunal has not considered the fact that the F.I.R. has been registered against the rider of the motor cycle, in which the Claimant was travelling, while fixing negligence on the Appellant and further the Tribunal has also not considered Ex.P6-Rough sketch, which clearly shows that morethan 3/4th of the bus, belonging to the Transport Corporation has been entered into the branch road and the motor cycle of the claimant has hit the back side of the bus, which was coming from the Main Road. He further submitted that the Claims Tribunal ought to have fixed entire negligence on the part of the Claimant. He further submitted that the compensation awarded towards other heads also very high and the same needs to be reduced.

6. Insofar as the first contention raised by the Appellant is concerned, the driver of the Transport Corporation has filed the Ex.P1-F.I.R against the rider of the Motor cycle, in which Claimant was travelling, with regard to the accident, taking note of Ex.P9-certified copy of the Judgment in Spl.C.C.No.218 of 2013, wherein it is stated that the rider of the two wheeler alone is not responsible for the accident and further based on the cross examination of P.W.1 and R.W.1, the Claims Tribunal has rightly fixed Contributory negligence of 20% on the side



of the Claimant and 80% on the side of the Appellant/Transport Corporation which does not warrant interference.

7. Insofar as the monthly income of the Claimant is concerned, P.W.2 stated that he was working as a Silk Weaver at the time of the accident and was earning a sum of Rs. 15,000/- per month. As there is no proof with regard to the income, the Claims Tribunal considering the age of the claimant at the time of accident, has rightly fixed the monthly income at Rs.6,000/- and taking note of the period of treatment undergone by the Claimant, the Tribunal has rightly awarded a compensation towards loss of income for three months at Rs.18,000/-(6,000 x3) which is not excessive and the same need not be reduced.

8. On scrutinizing the nature of injuries sustained by the claimant and period of treatment undergone by the Respondent/Claimant, the quantum of compensation awarded by the Tribunal to the Respondent/Claimant under various heads, totalling a sum of Rs.1,42,824/- cannot be considered to be excessive, as alleged by the Appellant/ Transport Corporation. For the foregoing reasons, this Court does not find any merit in this Appeal and accordingly, the Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

9. The Appellant/Transport Corporation is directed to deposit the entire amount awarded by the Tribunal together with interest at 7.5% per annum from the date of the Claim Petition till the date of realization, less the amount, if any, already deposited to the credit of M.C.O.P.No. 77 of 2014 on the file of the Motor Accident Claims Tribunal, Special Sub Judge I, Salem, within a period of four months from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the Award amount directly to the Bank account of the Respondent/Claimant through RTGS, within a period of two weeks.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

(arr) / (shk)



To:

1. The Special Subordinate Judge I,
Motor Accident Claims Tribunal,
Salem.

WEB COPY

2. The Section Officer,
V.R. Section,
High Court of Madras,
Chennai 600 104.

+1cc to Mr.D.Venkatachalam, Advocate SR.No.40341

C.M.A. No.2311 of 2021

SV(CO)
GN(25/11/2021)