



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

C.M.A.No.359 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
(Villupuram) Ltd,
Vellore.

... Appellant/Respondent

Vs.

Muthammal @ Kuppammal

... Respondent/Claimant

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 23.12.2014 made in M.C.O.P.No.129 of 2014 on the file of the Motor Accidents Claims Tribunal, III Additional District Court, Thirupathur, Vellore District.

For Appellant : Mr.K.J.Sivakumar

For Respondent : No Appearance

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 23.12.2014 made in M.C.O.P.No.129 of 2014 on the file of the Motor Accidents Claims Tribunal, III Additional District Court, Thirupathur, Vellore District.

3.The appellant is the respondent in M.C.O.P.No. 129 of 2014 on the file of the Motor Accidents Claims Tribunal, III Additional District Court, Thirupathur, Vellore District. 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 08.08.2012.



4. According to respondent, on 08.08.2012, at about 04.50 hours, she was traveling in the bus bearing Registration No. TN 23 N 1839 from Jamunamarathur, while it is nearing to Alangayam near Somaleri due to negligence of bus driver and conductor, the bus started before the respondent getting down from the bus and thus 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, and taken treatment as inpatient from 08.08.2012 to 19.09.2012. 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.

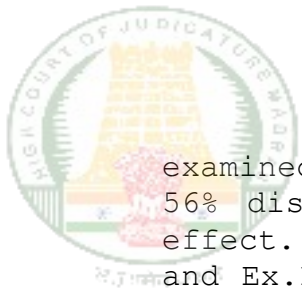
5. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by the driver of the bus belonging to appellant-Transport Corporation and directed the appellant to pay a sum of Rs.2,22,000/- as compensation to the respondent.

6. Questioning the quantum of compensation awarded by the Tribunal in the award dated 23.12.2014 made in M.C.O.P.No.129 of 2014, 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.4,500/- 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.2/Doctor that the respondent suffered 56% disability as the same is on the higher side. The Tribunal ought not to have awarded a sum of Rs.2,000/- per percentage of disability. The amounts awarded by the Tribunal towards pain and sufferings, mental agony, extra nourishment, attendant charge, loss of income for the period of three months, damages to cloth and transportation 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 multiple injuries all over the body. To prove the nature of injuries and disability suffered by her, the respondent examined herself as P.W.1 and examined P.W.2/Doctor. P.W.2/Doctor



examined the respondent and certified that respondent suffered 56% disability and issued Ex.P5/disability certificate to that effect. The Tribunal considering the evidence of P.W.2/Doctor and Ex.P5/disability certificate, awarded a sum of Rs.1,12,000/- (Rs.2,000/- X 56% of disability) for 56% disability at the rate of Rs.2,000/- per percentage of disability and the same is not excessive. At the time of accident, the respondent was a Coolie aged 63 years and was earning a sum of Rs.7,000/- 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.4,500/- per month as notional income of the respondent and awarded a sum of Rs.13,500/- (Rs.4,500/- X 3 months) for loss of income for three months and the same is not excessive. Immediately after the accident, she was taken to Government Hospital, Vellore for first aid treatment and taken inpatient treatment from 08.08.2012 to 19.09.2012 for one month. Considering the nature of injuries, evidence of P.W.2/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.2,22,000/- 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.129 of 2014 on the file of the Motor Accidents Claims Tribunal, III Additional District Court, Thirupathur, Vellore District. 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



To

WEB COPY

1.The Motor Accidents Claims Tribunal,
III Additional District Court,
Thirupathur,
Vellore District.

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

+1cc to Mr.K.J.Sivakumar, Advocate Sr.64219

C.M.A.No.359 of 2017

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srg 11/02/2022