



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A (MD) No.1191 of 2010

Murugan : Appellant/Petitioner

Vs.

Tamil Nadu State Transport Corporation

By-Pass Road, Madurai

Rep. by its The Managing Director. : Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act, against the fair and decreetal order, dated 06.08.2009 made in MCOP No.25 of 2008 on the file of Motor Accident Claims Tribunal (Sub-Court), Virudhunagar.

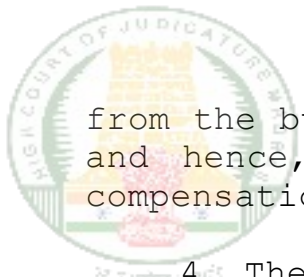
For Appellant : Mr.S.Srinivasa Ragavan
For Respondent : Mr.K.Sudalaiyandi

JUDGMENT

The Motor Accident Claims Tribunal (Sub-Court), Virudhunagar in M.C.O.P.No.25 of 2008 arrived at a total compensation of Rs.1,96,000/- and after deducting 50% towards his liability passed the award at Rs.98,000/- along with interest at the rate of 7.5% p.a. Being dissatisfied with the award, the appellant seeks enhancement of compensation in this appeal.

2.It is the case of the claimant that on 22.11.2007 at 8.10 a.m., he travelled as a passenger in a bus belonging to the Transport Corporation bearing Registration No.TN-58-N-0534 from Parthibanoor to Uthirakosamangai. According to him, the bus was driven by its driver in a rash and negligent manner and he was thrown away from the bus and sustained injuries. Immediately, he was carried to Paramakudi Government Hospital and after providing first-aid, he got admitted at Quality Care Hospital in Madurai. He would further state that he sustained fracture and injury all over the body and hence, he is entitled to compensation of Rs.3,00,000/- (Rupees Three Lakhs Only).

3. The claim was resisted by the respondent/Transport Corporation contending that the bus was stopped at Samuthakudi Railway crossing and after getting the signal, the bus was moved, but the claimant without informing the conductor and he got down



from the bus and attempted to board the bus when the bus is moving and hence, the Transport Corporation is not liable to pay the compensation and the claim is excessive.

4. The claimant examined two witnesses and marked 10 exhibits. On the side of the appellant, the conductor was examined as R.W.1, but no document was produced. On consideration of the evidence adduced by the parties, the Tribunal held that both the claimant as well as the driver of the bus are equally responsible for the accident and awarded compensation as stated supra.

5. Heard the learned counsels appearing on either side and perused the materials available on record.

6. A perusal of the judgment of the Tribunal would show that the claimant marked Ex.P4 sketch and Ex.P5 observation mahazar and on the basis of the evidence, the Tribunal came to the conclusion that the claimant attempted to board the bus when it is moving and hence he is also responsible for the accident. Therefore, I find no reason to interfere with the findings on the negligence.

7. With regard to quantum, the evidence of P.W.2 and Ex.P10 would show that the claimant has suffered 62% permanent disability. The Tribunal has granted a sum of Rs.62,000/- as compensation by fixing a sum of Rs.1,000/- per percentage of disability. The amount awarded by the Tribunal is very meagre. Hence, this amount is enhanced to Rs.1,24,000/- by fixing a sum of Rs.2,000/- per percentage of disability.

8. It is also stated that the claimant suffered fracture and injuries and was treated as in patient in the private hospital for considerable period and he underwent surgery, but the Tribunal has not awarded any amount towards attendant charges. Hence, this Court awards a sum of Rs.12,000/- towards attendant charges.

9. Based on Ex.P2 and Ex.P7 the Tribunal has awarded a sum of Rs.94,000/- towards medical expenses, Rs.20,000/- towards pain and suffering and Rs.20,000/- towards extra nourishment. The award of the tribunal is modified as under:-

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	For permanent disability (62%)	62,000	1,24,000	enhanced



2.	For medical expenses	94,000	94,000	confirmed
3.	For pain and suffering	20,000	20,000	confirmed
4.	For attendant charges		12,000	awarded
5.	For extra nourishment	20,000	20,000	confirmed
	Total	Rs.1,96,000	Rs.2,70,000/-	By enhancing a sum of Rs.74,000/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed, enhancing the award of the Tribunal from Rs.1,96,000/- to a sum of **Rs.2,70,000/-**. The claimant is entitled to a sum of **Rs.1,35,000/-** as compensation along with interest @ 7.5% per annum from the date of petition till date of realization with proportionate costs. Since, 50% contributory negligence has been fixed on the appellant-claimant, he is entitled only to a sum of **Rs.1,35,000/- (Rs.2,70,000-Rs.1,35,000)** along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs.

11. The appellant-claimant is directed to pay the additional Court Fees, if any, within a period of **two weeks** from the date of receipt of a copy of this judgment. The respondent shall deposit the modified award amount of Rs.1,35,000/- with 7.5% interest and costs, within a period of eight weeks from the date of receipt of a copy of this judgment, less the amount already deposited, if any. On such deposit, the claimant is entitled to withdraw the entire amount. No costs.

Sd/-

Assistant Registrar (CS-II)

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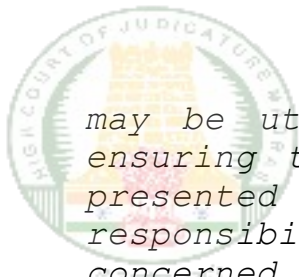
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Sub Assistant Registrar(CS)

AM

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order

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may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

WEB COPY

To

The Subordinate Judge,
Motor Accident Claims Tribunal
Virudhunagar.

Copy to

The Section Officer, V.R. Section-2 copies
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.K.SUDALAIYANDI, Advocate (SR-1711[F] dated 21/01/2021)

+1 CC to Mr.S.SRINIVASA RAGHAVAN, Advocate (SR-1749[F] dated 22/01/2021)

C.M.A(MD)No.1191 of 2010
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