



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.12.2021

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.M.A. (MD) .No.1175 of 2013

The Managing Director,
M/s.Tamil Nadu State Transport Corporation,
(Kumbakonam Division II) Limited,
Trichy - 1. ...Appellant/Respondent

Vs.

A.Dharmalingam ...Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the Judgment and Decree dated 27.04.2012 passed in M.C.O.P. No.382 of 2010 on the file of learned Motor Accident Claims Tribunal/Sub Court, Kulithalai.

For Appellant :Mr.P.Prabhakaran
For Respondent :Mr.N.Sudhagar Nagaraj

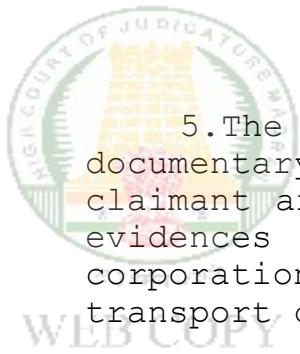
ORDER

This Civil Miscellaneous Appeal has been filed by the Transport Corporation against the liability fixed by the Tribunal.

2.It is a case of accident. On, 06.05.2010 at 08.20 p.m., the claimant was driving a motor cycle bearing Regn. No.TN-46-F-0682 along with his friend one Senthilkumar, as a pillion rider, west of the Thuraiyur - Namakkal road, near Aaraichi Pirivu road, a bus bearing Regn. No.TN-45-N-1771 belonging to the Transport Corporation which was driven by its driver in a rash and negligent manner, from west to east and dashed against the two wheeler. Due to the accident, the claimant has sustained multiple grievous injuries.

3.The claimant has filed a claim petition in M.C.O.P.No.382 of 2010 on the file of the learned Motor Accident Claims Tribunal/Sub Court, Kulithalai. seeking compensation.

4.Before the Tribunal, on the side of the claimant four witnesses were examined as P.W.1 to P.W.4 and marked thirteen documents as Exs.P.1 to P.13 and on the side of the Transport Corporation one witness was examined as R.W.1 and no document was marked.



5.The Tribunal, after considering the pleadings, oral and documentary evidences and the arguments of the counsel for the claimant and the transport corporation and also on appreciating the evidences on record, the tribunal has directed the transport corporation to pay compensation. Against the said order, the transport corporation is before this Court.

6.Heard on either side. Perused the material documents available on record.

7.The claimant has filed the claim petition in M.C.O.P.No.382 of 2010 for claiming compensation for the injuries sustained by him in road accident on 06.05.2010 at 08.2 p.m. The claimant was riding in two wheeler along with his friend, the bus bearing Regn.No.TN-46-F-0682 belonging to the Transport Corporation came in rash and negligent manner and dashed against the two wheeler. The claimant has sustained injuries and also suffered 35% permanent disability.

8.The tribunal has applied multiplier method for calculating the loss of income. But, for 35% loss of income cannot be calculated on the basis of multiplier. Rs.3,000/-fixed for each percentage of permanent disability.12.On hearing both sides, this Court is inclined to modify the award amount of compensation passed by the Tribunal.

9.Accordingly, the claimant is are entitled for compensation as follows:

For permanent disability 35% x Rs.3,000/-	.. Rs.	1,05,000/-.
Loss of income	.. Rs.	9,000/-
Medical Expenses as per Bill	.. Rs.	27,480/-
Expenses for Transport and Extra Nourishment	.. Rs.	7,500/-
Pain and Suffering	.. Rs.	17,000/-

Total Compensation

.. **Rs.1,65,980/-**

with interest at 7.5% p.a., as awarded by the Tribunal, from the date of claim petition till the date of realization.

10.In view of the said modification, this Civil Miscellaneous Appeal is partly allowed, and the award amount of **Rs.2,26,220/-** granted by the learned Motor Accident Claims Tribunal/Sub Court, Kulithalai, is reduced to **Rs.1,65,980/-** with 7.5%. The appellant/Transport Corporation company is directed to deposit the entire award amount as fixed by this Court, within a period of six weeks, from the date of receipt of copy of the order. After depositing, the claimant is permitted to withdraw the award amount



with interest. If the appellant/Transport Corporation deposited the excess amount is to be refunded to the Transport Corporation. No costs.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)

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

To

The Motor Accident Claims Tribunal/
Sub Judge,
Kulithalai.

Copy to

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

+1 CC to M/s.P.PRABHAKARAN, Advocate (SR-38220[F] dated 10/12/2021)

+1 CC to M/s.N.SUDHAGAR NAGARAJ, Advocate (SR-38411[F] dated 13/12/2021)

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KB(17.02.2022) 3P 6C