



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.01.2021

CORAM

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD) 524 of 2009

Udaya Suriya Narayanan @ Kannan ... Appellant/Petitioner

Vs. ,

The Managing Director,
Tamil Nadu State Transport Corporaiton,
Bye-pass Road, Madurai. ... Respondent/Respondent

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and degree order dated 19.12.2008 in MCOP.No.829 of 2006 on the file of the I Additional Sub-Court, Madurai.

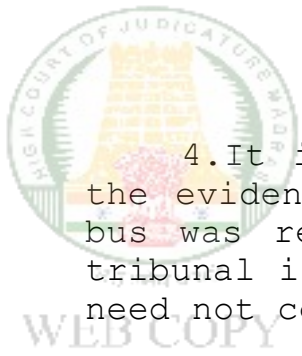
For Appellant : Mr.C.Godwin
For Respondent : Mr.D.Sivaraman

JUDGMENT

This appeal has been preferred by the claimant being dissatisfied with the award of the Motor Accident Claims Tribunal (I Additional Subordinate Court) Madurai, dated 19.12.2008 passed in MCOP No. 829 of 2006.

2.The appellant as claimant in MCOP No.829 of 2006 sought for compensation of Rs.5,00,000/- for the injuries sustained by him in an accident, which took place on 23.12.2005. It is his case before the tribunal that when he travelled as a pillion rider in a Motor Cycle, which was proceeding from Madurai to Theni, the bus, owned by the respondent bearing registration No.TN 59 N 1052 came in a rash and negligent manner and hit against the Motor Cycle, in which, he sustained multiple grievous injuries and fracture. Immediately, he was taken to Government Rajaji Hospital, Madurai and after giving first aid, he got admitted himself in Preethi Hospital, K.K.Nagar, Madurai and he was treated therein from 23.12.2005 to 08.01.2006 and thereafter, from 08.01.2006 to 10.02.2006, he took treatment in City Hospital and underwent three surgeries.

3.The claim was resisted by the respondent Transport Corporation contending that the accident did not take place as stated by the claimant, but it occurred only due to the negligence of the rider of the motorbike.



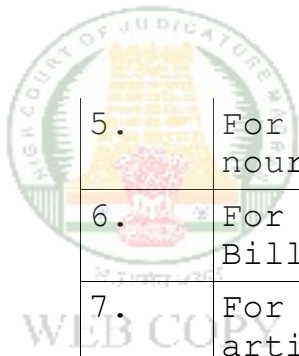
4.It is pertinent to note that the tribunal, after analyzing the evidence adduced by the parties, held that the driver of the bus was responsible for the accident. The said finding of the tribunal is not challenged by the respondent and hence, this Court need not concentrate on this aspect.

5.With regard to the quantum, this appeal has been preferred by the claimant seeking enhancement of compensation. The claimant was examined himself as PW1 and one Murugan, who was working in City Hospital, Madurai, was examined as PW2 and Dr.Chitambaram as PW3. The evidence of PW3 and Ex.P16 (wound certificate) shows that the claimant has suffered permanent disability to an extent of 55%. However, the tribunal has taken the disability 45%. It is the contention of the learned counsel appearing for the appellant that the tribunal has awarded a meager sum for disability of Rs.45,000/- and hence, it has to be enhanced.

6.I find force in the submission of the learned counsel for the petitioner and hence, for the permanent disability of 45% this Court awards Rs.90,000/-. Based on Exs.P4, P5, P7 & P9, the tribunal has awarded Rs.1,20,543/- for the medical expenses.

7.It is evident from the records that the injured was inpatient in the private hospitals for about 42 days and also he underwent surgeries, but no amount is granted for the pain and sufferings. Ex.P8 was produced to show that the claimant paid doctors bill of Rs.31,100/-, but it was rejected by the tribunal on the sole ground that he did not produce any voucher. When PW1 has categorically stated that he paid the doctors bill, it would not be appropriate to reject his case. Considering the nature of injuries and period of treatment, the award 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	45,000	90,000	enhanced
2.	For loss of income during treatment period	12,000	15,000	enhanced
3.	For medical expenses	1,20,543	1,20,543	confirmed
4.	For pain and suffering	-	15,000	awarded



5.	For extra nourishment	5,000	5,000	Confirmed
6.	For Doctors Bills	-	31,100	awarded
7.	For loss articles	300	300	confirmed
8.	For attendant charges	2,000	5,000	enhanced
	Total	Rs.1,82,843	Rs.2,81,943/- rounded of to Rs.2,80,000/-	By enhancing a sum of Rs.97,157/-

8.In the result, this Civil Miscellaneous Appeal is partly allowed, enhancing the award of the Tribunal from Rs.1,82,843/- to a sum of **Rs.2,80,000/-**. **The original award amount of the Tribunal shall carry interest at the rate of 7.5% per annum and the enhanced award amount shall be paid along with interest at the rate of 6% p.a.,** from the date of admission of the appeal till the date of realization with proportionate costs. The respondent shall deposit the enhanced award amount with 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. The claimant is permitted to withdraw the award amount by filing formal petition before the Tribunal. No costs.

Sd/-

Assistant Registrar(T & P)

// True Copy //

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Sub Assistant Registrar(CS)

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To

1.The I Additional Sub-Judge, Madurai.

2.The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court, Madurai(2 copies).

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-1902[F] dated 22/01/2021)

+1 CC to M/s.C.GODWIN, Advocate (SR-1952[F] dated 25/01/2021)

C.M.A(MD)No.524 of 2009

21.01.2021

MA (CO)

TR(29.04.2021) 3P 6C