



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 31.03.2021

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THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

C.M.A. (MD)No.1434 of 2013

and

M.P(MD) No.3 of 2013

The Managing Director,
Tamil Nadu State Transport Corporation
(Coimbatore) Division-1,
37, Mettupalayam Road,
Coimbatore.

.... Appellant/Respondent in M.C.O.P.

-Vs-

S.M.Arumugam

... Respondent/Petitioner in M.C.O.P.

Prayer: This Petition is filed under Section 173 of the Motor Vehicles Act, to set aside Judgment and Decree passed by the Motor Accident Claims Tribunal cum Chief Judicial Magistrate Court, Karur in M.C.O.P.No.253 of 2007, dated 28.12.2010.

For Appellant : Mr.M.Prakash

For Respondent : Mr.D.Nallathambi

JUDGMENT

Challenge made in this appeal is to the award passed by the Motor Accident Claims Tribunal cum Chief Judicial Magistrate Court, Karur, in M.C.O.P.No.253 of 2007, dated 28.12.2010.

2.The brief facts of the case are that on 12.02.2007 at about 02.30 hours, one Kumaravelu was riding his bike bearing Registration No.TN-55-M-5255, when the respondent/claimant was a pillion rider and they were travelling from Coimbatore and were proceeding to Pudukottai to visit the family members of one Kumaravelu, the driver of the bus bearing Registration No.TN-33-N-2079 in a rash and negligent manner and dashed against the Motorbike of the respondent/claimant. The respondent/claimant was thrown off along with his bike and he sustained multiple injuries all over the body and fracture in the shaft of right femur. He was immediately taken to K.G.Hospital at Karur for giving treatment as inpatient. Thereafter, he was admitted in the Coimbatore Government Hospital on 19.02.2007 for further treatment. Then, the operation was done to the respondent/claimant, he was discharged on 21.03.2007. A criminal



case in Crime No.41 of 2007 was registered against the driver of the offending vehicle by the K.Paramathi Police Station. The claimant sought compensation of Rs.5,00,000/- from the respondent with interest.

3.The claimant has stated that he was working as a Contractor in various Textile Industry and he was earning Rs.8,000/- per month.

4.The claim was opposed by the appellant disputing the manner of accident and their liability to pay compensation.

5.The Tribunal, upon consideration of oral and documentary evidence, came to the conclusion that the appellant/respondent was responsible for the accident and awarded compensation of Rs.1,29,000/- with interest @ 7.5 % p.a.

6.Heard both sides and perused the materials available on record.

7.The manner of the accident and the finding on negligence are not in dispute and the appeal is confined only to quantum of compensation awarded by the Tribunal.

8.It is contended by the learned counsel for the appellant that the tribunal has not fixed the disability and the quantum of award is on the higher side, so the quantum is to be reduced. On the other hand, the learned counsel for the respondent/claimant submitted that the award is reasonable, which does not warrant any interference of this court.

9.In the instant case, P.W.2 who examined the claimant has issued the wound certificate, Ex.A.2 and that at the time of accident, the claimant underwent surgery for his fracture on his right thighs. On examining the claimant, P.W.2 has deposed that due to fracture, plates were inserted in his legs. Because of which, the claimant cannot walk on his own and he declared that the claimant has suffered 45 % disability and issued the disability certificate, Ex.A3. For removal of plates, a sum of Rs.20,000/- is to be given.

10.As per Ex.A2, wound certificate, the claimant has suffered four major injuries and due to which, the claimant cannot walk on his own. It is not disputed that as per the deposition of P.W.2 the disability of the claimant is fixed as 45 %. A sum of Rs.90,000/- (Rupees Ninety Thousand only) is to be given towards disability. The Tribunal has awarded a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) towards pain and sufferings. Since the claimant has suffered four major injuries, the claimant claimed a sum of Rs.20,000/- (Rupees Twenty Thousand only) towards further treatment and that the Tribunal has awarded a sum of Rs.10,000/- (Rupees Ten



Thousand only) towards future treatment. Further, the Tribunal awarded Rs.2,000/- towards transportation; Rs.2,000/- towards nutrition. In total, the Tribunal has awarded **Rs.1,29,000/-** together with interest @ 7.5% p.a. payable to the respondent/claimant by the appellant/respondent.

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10.This Court is of the considered opinion that the award of the tribunal, based on the evidence, is reasonable and warrants no interference of this court and the same is confirmed.

11.In the result, the Civil Miscellaneous Appeal is dismissed, confirming the award of the tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

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

1.The Chief Judicial Magistrate Court,
Motor Accident Claims Tribunal,
Karur.

Copy to:-

The Section Officer,
The Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

CMA(MD) No.1434 of 2013
31.03.2021

_RD(1.09.2021) 3P 4C