



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 05.08.2021

CORAM

THE HONOURABLE MRS.JUSTICE R. THARANI

C.M.A. (MD)No.909 of 2013

A.Balu

... Appellant/Petitioner

Vs.

The Managing Director,
Tamil Nadu State Transport
Corporation (Madurai Division) Ltd.,
Bye Pass Road,
Madurai.

... Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Accident Vehicles Act, to set aside so far as the quantum of award concerned and enhance the award amount from Rs.1,80,000/- to just more than of just and fair compensation in the above M.C.O.P.No.528 of 2005 dated 26.07.2010 on the file of the learned Additional District Judge (Fast Track Court NO.3), Madurai.

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

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the order passed in M.C.O.P.No.528 of 2005 dated 26.07.2010, on the file of the learned Additional District Judge (Fast Track Court No.3), Madurai.

2.The appellant herein is the claimant and the respondent herein is the respondent in the claim petition. The respondent herein has filed a claim petition in M.C.O.P.No.528 of 2005, claiming compensation for the injuries sustained by the claimant, in an accident that took place on 03.09.2004. The Tribunal has awarded a sum of Rs.1,80,000/- (Rupees One Lakh and Eighty Thousand only) as compensation. Against which, the appellant has preferred this appeal.

3.A brief substance of the claim petition in M.C.O.P.No.528 of 2005 is as follows:

On 03.09.2004, at about 19.50 hours, the claimant was travelling as a passenger in respondent bus bearing registration No.TN-58-N-0297 from Madurai to Palamedu. When the bus was nearing Mappillai Vinayakar Theathre, the driver of the bus drove the bus in a rash and negligent manner and applied sudden brake. Due to which, the claimant fell down from the bus and sustained injuries. The



claimant claimed a sum of Rs.4,00,000/- (Rupees Four Lakhs only) as compensation.

4.A brief substance of the counter filed by the respondent therein is as follows:

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The manner of the accident is denied. The injuries, treatment, disability are denied. The age, avocation and income of the claimant has to be proved. The driver of the bus drove the vehicle in a moderate speed observing all road rules and stopped the vehicle at Kalavasal traffic signal. After getting the signal, the bus was started in a slow manner. At that time, the claimant attempted to board the bus. He fell down and sustained injuries. The complaint was lodged only after a lapse of two months and the respondent is not liable to pay compensation.

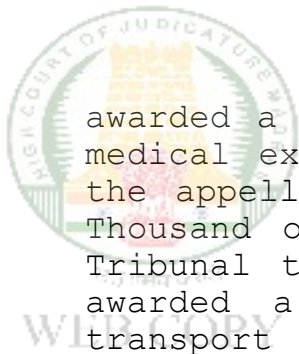
5.On the side of the petitioner therein, three witnesses were examined and 11 documents were marked. On the side of the respondent therein, one witness was examined and no document was marked. After trial, the Tribunal has awarded a sum of Rs.1,80,000/- (Rupees One Lakh Eighty Thousand only) as compensation to be paid by the respondent herein. Against which, the appellant has preferred this Civil Miscellaneous Appeal for enhancement of compensation.

6.On the side of the appellant, it is stated that the Tribunal failed to award compensation for the loss of amenities. The compensation awarded for pain and suffering and for medical expenses is very low. The doctor has certificated the disability as 50% but the Tribunal has fixed the disability as 30%. Fixing compensation at the rate of Rs.1,500/- per percentage disability is not correct.

7.On the side of the respondent, it is stated that the compensation already awarded is excessive and prayed the appeal to be dismissed.

8.The doctor has fixed the disability as 50%. The Tribunal fixed the disability at 30%. The appellant has undergone treatment as 'inpatient' in the Government hospital for four days and then he was shifted to private hospital and he took treatment till 24.09.2004 and then he continued treatment in another private hospital till 08.12.2004. The discharge summary issued by the private hospital was marked as Ex.P5 and Ex.P8. P.W.3 doctor has deposed and the disability certificate was marked as Ex.P10. X ray was marked as Ex.P11.

9.Considering the evidence of P.W.3 and considering Ex.P10, the disability is fixed as 50%. The accident took place in the year 2004 and hence, a sum of Rs.2,000/- (Rupees Two Thousand only) was fixed for each percentage of the disability. The appellant is entitled to a sum of Rs.1,00,000/- (Rupees One Lakh only) towards compensation for the disability sustained by him. The Tribunal



awarded a sum of Rs.90,000/- (Rupees Ninety Thousand only) towards medical expenses. From Ex.P6, Ex.P7 and Ex.P9, it is decided that the appellant is entitled for a sum of Rs.90,000/- (Rupees Ninety Thousand only) towards medical expenses. The amount fixed by the Tribunal towards medical expenses is reasonable. The Tribunal has awarded a sum of Rs.10,000/- (Rupees Ten Thousand only) for transport expenses extra nourishment and for attender charges. The amount fixed by the Tribunal is reasonable. The Tribunal has awarded a sum of Rs.30,000/- (Rupees Thirty Thousand only) towards future medical expenses and the same is reasonable. Hence, it is decided that the appellant is entitled to a sum of Rs.2,30,000/- (Rupees Two Lakhs and Thirty Thousand only) as total compensation.

10.On the side of the respondent, it is stated that the rate of interest fixed by the Tribunal is excessive and that the rate of interest is to be fixed as 7.5%. This contention raised by the respondent is reasonable.

11.In the result, this Civil Miscellenaous Appeal is partly allowed. The appellant is entitled to a sum of Rs.2,30,000/- (Rupees Two Lakhs Thirty Thousand only) as compensation with interest at the rate of 7.5% from the date of the claim petition till the date of realization.

12.The respondent is directed to deposit Rs.2,30,000/- (Rupees Two Lakhs Thirty Thousand only) with 7.5% interest from date of the claim petition till the date of realization and the amount if not deposited earlier, has to be deposited within a period of 8 weeks from the date of receipt of copy of this order. On such deposit, the appellant is permitted to withdraw the award amount with proportionate interest after deducting any amount received by him earlier. Excess amount, if any deposited shall be refunded to the respondent. The appellant is not entitled for interest for the default period, if there is any. No Costs.

Sd/-

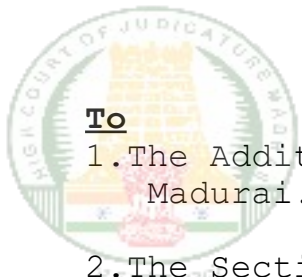
Assistant Registrar (CO)

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Sub Assistant Registrar(CS)

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 Additional District Judge (Fast Track Court No.3),
Madurai.

2.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

C.M.A. (MD) No. 909 of 2013

05.08.2021

RS (07.09.2021) 4P 4C