

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	08.02.2021
Date of Judgment	17.04.2021

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THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLIC.M.A(MD)No.193 of 2018andCMP(MD)No.3013 of 2018

The Managing Director,
Tamil Nadu State Transport Corporation,
Maruthupathy,
Karaikudi,
Sivagangai District.

: Appellant/Respondent

Vs.

Sathish Kumar

: Respondent/Petitioner

PRAYER:- Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 against the award passed by the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Ramanathapuram, made in MCOP No.13 of 2015, dated 28.03.2017.

For Appellant : Mr.P.Prabhakaran
For Respondent : Mr.K.Kumarvel

J U D G M E N T

This appeal has been filed challenging the award passed by the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Ramanathapuram, made in MCOP No.13 of 2015, dated 28.03.2017.

2.The brief facts of the case is that on 12.09.2014 at about 2.00 pm, when the claimant was riding his motor cycle TN-65-J-4082 on Paramakudi-Ramanathapuram Main Road, near Thoruvalur Bus Stop, the Transport Corporation Bus TN-63-N-1121 came in a rash and negligent manner and dashed against the two wheeler. In the accident, the claimant had sustained severe injuries all over the body, besides fracture injuries. The injured claimant filed a claim petition seeking compensation of Rs.5,00,000/- on the ground that the offending vehicle caused the accident.

3.The Tribunal, on consideration of oral and documentary evidence adduced by the parties, came to the conclusion that the driver of the offending vehicle has caused the accident and awarded compensation of Rs.3,09,700/- together with interest @ 7.5% p.a.

<https://hcservices.ecourts.gov.in/hcservices/>

4.The learned counsel for the appellant submitted that the tribunal has fastened the entire negligence only on the Transport

Corporation Bus driver and the rider of the two wheeler is alone invited the accident and he was solely responsible for the accident and without appreciating the law and facts and evidence, the tribunal has wrongly fixed the entire responsibility on the part of the driver of the bus and the quantum of compensation awarded by the tribunal is excessive and exorbitant. Per contra, the learned counsel appearing for the respondent argued that the tribunal based on the evidence available on record, both oral and documentary, has awarded reasonable compensation and hence, prays that the Civil Miscellaneous Appeal has to be dismissed.

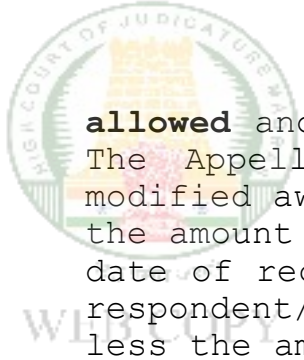
5. Heard both sides and perused the materials available on record.

6. The dispute is in respect of quantum alone. In this case, the Doctor, who determined the disability for the claimant was examined as PW3. He deposed that after examining the injured, he issued the Disability Certificate (Ex.P14) stating that the injured has sustained 32% partial permanent disability. The tribunal has fixed Rs.3,000/- for 1% of disability. By calculating so, the tribunal has correctly awarded Rs.96,000/- for 32% partial permanent disability. In respect of other heads, except the compensation awarded under the heads mental agony and future medical expenses for removing the plate fixed on the injured, the award is reasonable and as such, it is to be modified as detailed below:-

Head	Award of the Tribunal	Award of this court
Partial Permanent Disability For 32% (Rs.3,000/- x 32%)	Rs.96,000/-	Rs.96,000/-
Pain and Suffering	Rs.40,000/-	Rs.40,000/-
Medical Bills	Rs.50,700/-	Rs.50,700/-
Mental Agony	Rs.40,000/-	Rs.25,000/-
Loss of income for three months	Rs.18,000/-	Rs.18,000/-
Future medical expenses	Rs.50,000/-	Rs.25,000/-
Transportation	Rs. 5,000/-	Rs. 5,000/-
Nutrition	Rs.10,000/-	Rs.10,000/-
Total	Rs.3,09,700/-	Rs.2,69,700/-

7. Accordingly, the claimant is entitled to Rs.2,69,700/- together with interest at the rate of 7.5% p.a. from the date of petition, till the date of realization.

8. In the result, the Civil Miscellaneous Appeal is **partly**



allowed and the award of Rs.3,09,700/- is reduced to **Rs.2,69,700/-**. The Appellant Transport Corporation is directed to deposit the modified award amount together with accrued interest and costs, less the amount already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such compliance, the respondent/claimant is permitted to withdraw the entire amount, less the amount already withdrawn without filing any formal petition before the tribunal. Excess amount if any, shall be refunded to the appellant Transport Corporation. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar(CS)

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To

1.The Motor Accident Claims Tribunal/
Chief Judicial Magistrate,
Ramanathapuram.

2.The Record Keeper,
V.R Section,
Madurai Bench of Madras High Court,
Madurai.(2c)

+1 CC to M/s.K.KUMARAVEL, Advocate (SR-4096[F] dated 09/02/2021)

+1 CC to M/s.P.PRABHAKARAN, Advocate (SR-16173[F] dated 17/04/2021)

C.M.A(MD)No.193 of 2018
17.04.2021

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