



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated :27.07.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

C.M.A.(MD)No.389 of 2014

and M.P.(MD)No.2 of 2014

WEB COPY

The Branch Manager,
Tamil Nadu State Transport Corporation Limited,
Karanthai,
Thanjavur.

..Appellant/Respondent

Vs.

K.Elangovan

.. Respondent/Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree dated 19.01.2009, passed in M.C.O.P.No.706 of 2005 on the file of the Motor Accidents Claims Tribunal/Additional Sub Court, Thanjavur.

For Appellant	: Mr.P.Prabhakaran
For Respondent	: Mr.S.Deenadhayan

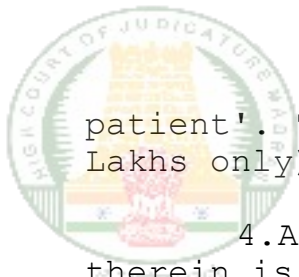
JUDGMENT

This Civil Miscellaneous Appeal has been filed against the award passed in M.C.O.P.No.706 of 2005 dated 19.01.2009, on the file of the Motor Accidents Claims Tribunal/Additional Sub Court, Thanjavur.

2.The appellant herein is the respondent and the respondent herein is the claimant in the claim petition. The respondent herein has filed a claim petition in M.C.O.P.No.706 of 2005, claiming compensation for the injuries sustained by the claimant, in an accident that took place on 19.02.2005. The Tribunal has awarded a sum of Rs.68,115/- (Rupees Sixty Eight Thousand One Hundred and Fifteen 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.706 of 2005 is as follows:

On 19.02.2005, at about 03.45 p.m., when the claimant was travelling as a pillion rider in a TVS 50 bearing registration No.TN-49-E-2435, a bus bearing registration No.TN-49-S-0479 was driven by its driver in a rash and negligent manner came from the opposite direction dashed against the claimant's vehicle and the claimant sustained injuries and he took treatment as 'inpatient' from 19.02.2005 till 22.02.2005. Then he took treatment as 'out



patient'. The claimant claimed a sum of Rs.3,00,000/- (Rupees Three Lakhs only) as compensation.

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

The accident was not due to rash and negligent driving of the bus driver. The claimant has to prove the mode of accident, nature of injury and the treatment expenses.

5.On the side of the petitioner therein, two witnesses were examined and seven documents were marked. On the side of the respondents therein, no witness was examined and no document was marked. After trial, the Tribunal has awarded a sum of Rs.68,115/- (Rupees Sixty Eight Thousand One Hundred and Fifteen only) as compensation to be paid by the appellant herein. Against which, the appellant has preferred this Civil Miscellaneous Appeal.

6.On the side of the appellant, it is stated that the Tribunal has calculated the award amount wrongly. The Tribunal awarded a sum of Rs.1,500/- for each percentage of the disability. The Tribunal fixed the disability as 18%. Instead of calculating the compensation for disability as Rs.27,000/-, the Tribunal has wrongly awarded Rs.37,000/-. The award of compensation under all other heads is excessive.

7.On the side of the respondent, it is admitted that there was an arithmetic mistake in the calculation of the award amount.

8.A perusal of the records reveals that the Tribunal has awarded a sum of Rs.1,500/- for each percentage of disability. For 18% disability, the Tribunal has wrongly mentioned as Rs.37,000/- instead of Rs.27,000/- and the same has to be corrected. The compensation awarded under all other heads are reasonable.

9.In the result, this Civil Miscellenaous Appeal is partly allowed. The respondent is entitled to a sum of Rs.58,115/- (Rupees Fifty Eight Thousand One Hundred and Fifteen only) as compensation with interest at the rate of 7.5% from the date of the claim petition till the date of realization.

10.The appellant is directed to deposit Rs.58,115/- (Rupees Fifty Eight Thousand One Hundred and Fifteen 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 respondent is permitted to withdraw the award amount with proportionate interest after deducting any amount received by him earlier without filing any formal petition before the Tribunal. Excess amount, if any deposited shall be refunded to the appellant. The respondent is not entitled



WEB COPY

C.M.A.(MD)No.389 of 2014

for interest for the default period, if there is any. No Costs. Consequently, M.P.(MD)No.2 of 2014 is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

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 Motor Accidents Claims Tribunal, Additional Sub Judge,
Thanjavur.
- 2.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

C.M.A. (MD) No.389 of 2014

27.07.2021

RD(10.08.2021) 3P 4C