



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.11.2021

CORAM :

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THE HONOURABLE MRS.JUSTICE S.ANANTHI

CMA.No.858 of 2014

Rasu
S/o.Poochi

... Appellant

Vs.

Tamil Nadu State Transport Corporation
Through its General Manager,
Marudhupathi,
Karaikudi,
Sivagangai District.

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the order dated 05.08.2013 passed in M.C.O.P.No.9 of 2012 on the file of the Motor Accident claims Tribunal(Subordinate and Assistant Sessions Judge), Devakottai.

For Appellant : Mr.J.Anand Kumar

For Respondent : Mr.P.Prabhakaran

J U D G M E N T

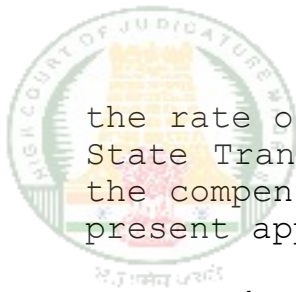
The appellant, who is the claimant in MCOP.No.9 of 2012 on the file of the Motor Accident Claims Tribunal /Subordinate and Assistant Sessions Judge, Devakottai has filed the present appeal.

2. The case of the claimants is as follows:

On 01.10.2010, the claimant was riding his motorcycle bearing Registration No. TN 63 Q 3076 along Karaikudi - Managiri Main Road, near Nagaraj Kottagai shop. At that time, a bus bearing Registration No. TN 63 N 1371 belonging to the Tamil Nadu State Transport Corporation hit him, as a result of which, he fell down and sustained injuries all over his body. According to the claimant, the rash and negligent driving of the driver of the bus belonging to the Tamil Nadu Transport Corporation was the cause of the accident and hence the respondent is liable to compensate him.

3. The learned Assistant Sessions Judge, Motor Accident Claims Tribunal, Devakkottai after analyzing the evidence on record, awarded a compensation of Rs.1,97,000/- together with interest at

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the rate of 6% per annum to the claimant and directed the Tamil Nadu State Transport Corporation to pay the same. Seeking enhancement of the compensation awarded by the Tribunal, the claimant has filed the present appeal.

4. Heard Mr.Anand Kumar, learned counsel appearing for the appellant and Mr.P.Prabhakaran, learned counsel appearing for the respondent.

5. The learned counsel for the appellant submitted that though the doctor has assessed the disability as 78%, the Tribunal reduced the same to 40% and awarded only a sum of Rs.40,000/- towards disability. The compensation awarded under other heads are also very meagre. He therefore, prayed for enhancement of compensation.

6. The learned counsel appearing for the respondent/Tamil Nadu State Transport Corporation contended that the Tribunal after considering all the aspects of the case, has awarded a just compensation and the same need not be enhanced.

7. A perusal of the evidence of PW3 Doctor shows that the claimant has sustained fractures of Tibia and Fibula bones. The Doctor has stated that the claimant's leg bones were bent and joined at a different place. The Doctor has assessed the percentage of disability as 78%. The Tribunal has reduced the same to 40% and awarded a sum of Rs.40,000/- towards disability, by fixing Rs.1,000/- per percentage of disability. Considering the nature of fractures sustained by the claimant, this Court is of the opinion that the disability fixed by the Tribunal at 40% is just and proper. However, since the accident is of the year 2010, this Court is of the opinion that awarding Rs.2,000/- per percentage of disability would be reasonable. Therefore it would come to 40% X Rs.2,000/- = Rs.80,000/-. Further, the rate of interest awarded by the Tribunal at 6% per annum is hereby modified to 7.5% per annum. Apart from the above, the awarded passed by the Tribunal under other heads are confirmed. The award passed by this Court under various heads is as follows:-

S.No.	Head	Amount granted by this court
1.	Loss of Income (6 X 5000/-)	Rs.30,000/-
2.	Medical expenses (15,000/- +50,000/-)	Rs.65,000/-
3.	Transportation	Rs.5,000/-
4.	Attender's Charges	Rs.5,000/-
5.	Pain and sufferings	Rs.2,000/-
6.	Extra Nourishment	Rs.20,000/-



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7.	Future Medical Expenses	Rs.30,000/-
8.	Disability (40 X 2,000/- = 80,000/-)	Rs.80,000/-
Total		Rs.2,37,000/-

8. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs.

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.1,97,000/- to Rs.2,37,000/-.

(iii) The respondent / Tamil Nadu State Transport Corporation is directed to deposit the enhanced compensation amount i.e., Rs.2,37,000/- (less the amount already deposited, if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP.No.9 of 2012 on the file of the Motor Accident Claims Tribunal /Subordinate and Assistant Sessions Judge, Devakottai, within a period of Eight weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the appellant / claimant is at liberty to withdraw the same after following due process of law.

Sd/-

Assistant Registrar (CS-III)

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/ /2022

Sub Assistant Registrar

To
The Motor Accidents Claims Tribunal/
Subordinate and Assistant Sessions Judge,
Devakottai.

Copy to:

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

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