



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2021

CORAM:

WEB COPY

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.M.A. (MD)No.933 of 2014

and

C.M.P (MD)Nos.8218 and 8219 of 2019

K.Pitchaiamani

...Appellant/Petitioner

Vs.

The Tamilnadu State Transport Corporation,
Rep. through its Managing Director,
Naval Nagar,
Dindigul.

...Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, against the award and decree, dated 27.01.2014 passed in M.C.O.P.No.1187 of 2009 on the file of the II Additional Subordinate Judge (Motor Accidents Claims Tribunal), Madurai.

For Appellant : Mr.V.Sakthivel

For Respondent : Mr.K.Sudalaiyandi

JUDGMENT

The appellant is the claimant in M.C.O.P.No.1187 of 2009 on the file of the Motor Accidents Claims Tribunal/II Additional Sub Judge, Madurai. He filed the claim petition under Sections 140, 161, 162 and 166 of the Motor Vehicles Act, 1988 r/w 3(1) of Tamil Nadu Motor Accident Claims Tribunal seeking compensation of Rs.12,00,000/- for the injuries sustained by him in a road accident on 10.07.2008.

2. The case of the claimant, in nutshell, is as follows:

On 10.07.2008 the claimant riding in his motorcycle bearing Registration No.TN-59-AD-2394 towards Vadipatti in Madurai to Vadipatti main road and one Rajaram was travelling as a pillion rider in the said motorcycle. When the motorcycle was proceeding near Ayyankottai, a lorry bearing Registration No.TN-49-N-1242, which was coming from opposite direction driven by its driver in a rash and negligent manner dashed against the motorcycle. Due to the said accident, the petitioner has sustained grievous injuries and immediately he was taken to Appollo Speciality Hospital, Madurai and admitted as inpatient from 10.07.2008 to 27.08.2008.



3.The claimant has filed the claim petition in M.C.O.P.No.1187 of 2009 on the file of the Motor Accidents Claims Tribunal/II Additional Sub Judge, Madurai, seeking compensation of Rs.12,00,000/-.

4.Before the Tribunal, on the side of the claimant six witnesses were examined as P.W.1 to P.W.6 and thirty six documents were marked as Exs.P.1 to P.36. On the side of the respondent, no one was examined and no document was marked.

5.The Tribunal, after considering the pleadings, oral and documentary evidences and the arguments of the counsel for the claimant and the respondent and also on appreciating the evidences on record, held that the accident occurred only, due to the rash and negligent driving of the driver of the respondent and directed the respondent to pay a sum of Rs.4,05,100/- as compensation. Aggrieved over the orders passed by the Tribunal, the claimant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

6.Heard Mr.V.Sakthivel, learned counsel appearing for the appellant and Mr.K.Sudalaiyandi, learned counsel appearing for the respondent and perused the material documents available on record.

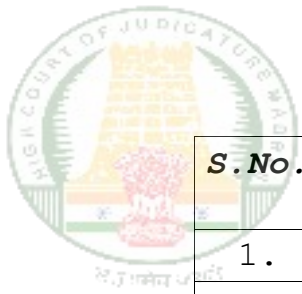
7.The learned counsel for the appellant contended that prior to the accident, the claimant earned more than Rs.2,00,000/- per year from commission as LIC Agent. Due to injury he could not speak and could not attend his work and lost his job. But the Tribunal has fixed 22% of disability and granted Rs.2,000/- for 1 % of his partial permanent disability and awarded Rs.44,000/-. Since the functional disability is 100% the Tribunal has failed to adopt multiplier method for calculating the loss of income and further the tribunal has failed to award proper compensation with regard to pain and suffering. Therefore he prayed for enhancement of compensation.

8.The respondent/State Transport Corporation has not filed any appeal against the award passed by the Tribunal.

9.Today the appellant is present before this Court. He could not speak and did not attend any work without attendant. Hence, 100% functional disability is agreed to the appellant. Since the functional disability is 100%, multiplier method has to be adopted. As per documents Ex.P21 to P25, the claimant earned more than Rs.2,00,000/- per year from commission as LIC Agent. Hence, this Court fixed a sum of Rs.7,000/- as his monthly income. Since the age of the appellant is 36 years, the multiplier applicable is '15'. Therefore, loss of income arrived at Rs.7,000/- x 12 x 15 = Rs.12,60,000/-.

10.The award passed by this Court under various heads is

<https://www.courtsofmadurai.org/>



S.No.	Head	Amount granted by this Court
1.	Loss of income	Rs. 12,60,000
2.	Transportation charges	Rs. 8,000/-
3.	Extra Nourishment	Rs. 20,000/-
4.	Damages to cloth	Rs. 2,500/-
5.	Nursing Assistance	Rs. 9,800/-
6.	Medical Expenses	Rs. 2,70,800/-
7.	Pain and suffering	Rs. 50,000/-
Total		Rs. 16,21,100/-

11.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.4,05,100/- to Rs.16,21,100/- which would carry interest at the rate of 7.5% per annum.

(iii)The respondent/Transport Corporation Limited, is directed to deposit the enhanced compensation amount i.e., Rs.16,21,100/- (Rupees Sixteen lakhs twenty one thousand one hundred only), 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 M.C.O.P.No.1187 of 2009, dated 27.01.2014 on the file of Motor Accidents Claims Tribunal/II Additional Sub Judge, Madurai 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 entitled to to withdraw the same by filing necessary application before the Tribunal. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

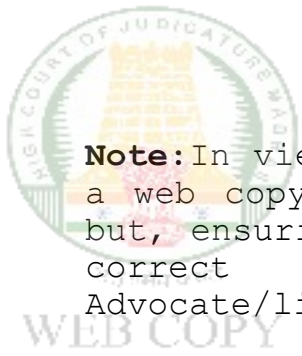
// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsd

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



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 II Additional Subordinate Judge
(Motor Accidents Claims Tribunal),
Madurai.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.(2 copies)

+1 CC to M/s.K.SUDALAIYANDI, Advocate (SR-39186[F] dated 16/12/2021)

+1 CC to M/s.V.SAKTHIVEL, Advocate (SR-39334[F] dated 17/12/2021)

C.M.A. (MD)No.933 of 2014
16.12.2021

RK(10/02/2022) 4P 6C