



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.12.2021

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.M.A.(MD)No.960 of 2017
and
C.M.P.(MD)No.10085 of 2017

The Managing Director,
Tamilnadu State Transport Corporation
(Villupuram) Limited,
Thiruvannamalai Region,
Thiruvannamali.

...Appellant/Respondent

Vs.

Praveen Paul

...Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988, to set aside the award and decree made in M.C.O.P.No.967 of 2013, dated 27.04.2016 on the file of the Motor Accidents Claims Tribunal/Special Sub Court, Tirunelveli.

For Appellant :Mr.P.Prabhakaran
For Respondent :No Appearance

JUDGMENT

This Civil Miscellaneous Appeal has been filed to set aside the award and decree made in M.C.O.P.No.967 of 2013, dated 27.04.2016 on the file of the Motor Accidents Claims Tribunal/Special Sub Court, Tirunelveli on the ground of quantum fixed by the Tribunal is very high.

2.It is a case of accident, which took place on 24.06.2013 at about 11.30 p.m., the respondent/petitioner was riding a two wheeler bearing Registration No.TN-32-M-7104 from Chenji to Thiruvannamali, while he was coming near Melapappambadi Yerikari Kanmai, at that time the driver of the appellant, who was driving a bus bearing Registration No.TN-72-N-1624 from opposite direction with rash and negligent manner dashed on the motorcycle. Due to the said accident, the respondent/petitioner sustained grievous injury.



3.The claimant has filed a petition in M.C.O.P.No.967 of 2013 on the file of the Motor Accident Claims Tribunal/Special Sub Court, Tirunelveli seeking compensation.

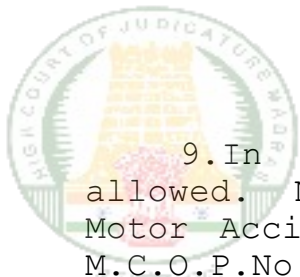
4.Before the Tribunal, on the side of the claimant five witnesses were examined as P.W.1 and P.W.5 and fourteen documents were marked as Exs.P.1 to P.14 and on the side of the respondent R.W.1 was examined and no document was marked.

5.The Tribunal, after considering the pleadings, oral and documentary evidences and the arguments of the counsel for the claimant and the respondents and also on appreciating the evidences on record, held that the accident occurred because of the negligence on the part of the driver of the Transport Corporation and directed the Transport Corporation to pay a sum of Rs.33,73,300/- as compensation at 9% interest. Against which, the appellant/respondent has filed this present appeal to set aside the award of compensation passed by the Tribunal.

6.The learned counsel appearing for the appellant/respondent objected the quantum and interest of 9% awarded by the Tribunal. He also contended that though the respondent/petitioner has sustained multiple injuries, P.W.3-the doctor has given Ex.P.10, wherein, it has been clearly stated that the respondent/petitioner has sustained 90% permanent disability only. But the Tribunal has fixed 100% and awarded Rs.15,30,000/- towards permanent disability and further the tribunal has failed to award proper compensation with regard to pain and suffering. Hence, the award passed by the Motor Accidents Claims Tribunal is liable to be modified.

7.Heard the learned counsel appearing for the appellant. Eventhough, the respondent name was printed, but no one appeared on behalf of the respondent.

8.On perusal of records, it shows that the respondent/claimant was working as an advocate and was earning Rs.15,000/- per month. Eventhough, permanent disability was given 90%, as per Ex.P10 and Ex.P11, the claimant is able to come to the Court by wheel chair. Since the claimant was working an advocate and both of his legs are useless, he cannot continue his job. So the Tribunal fixed functional disability and applied multiplier method and calculated the award amount. But the Tribunal also granted Rs.3,00,000/- towards loss of marital life and Rs.3,00,000/- towards pain and suffering and Rs.2,00,000/- towards loss of future expectation and Rs.2,00,000/- towards mental agony. The Tribunal has already calculated loss of income on the basis of multiplier method and also granted under both the heads for loss of marital life and loss of future expectation. The Tribunal again granted Rs.2,00,000/- towards mental agony, which has to be deducted. Further the tribunal has awarded 9% interest, which is very high and



9. In the result, this Civil Miscellaneous Appeal is partly allowed. No costs. The award amount of Rs.33,73,300/- passed by the Motor Accidents Claims Tribunal/Special Sub Court, Tirunelveli in M.C.O.P.No.967 of 2013, dated 27.04.2016, is hereby modified. The respondent is entitled to get Rs.31,73,300/- (Rupees Thirty one lakhs seventy three thousand and three hundred only) with interest at 7.5% p.a, from the date of claim petition till the date of realization. All the other terms the Tribunal awarded is confirmed. The appellant is directed to deposit the award amount within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the claimant is entitled to withdraw the amount with proportionate interests and costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Vsd

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/Special Sub Court,
Tirunelveli.

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

+1 CC to M/s.P.PRABHAKARAN, Advocate (SR-36903[F] dated
01/12/2021)

C.M.A. (MD)No.960 of 2017

and

C.M.P. (MD)No.10085 of 2017

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MGJ(10.12.2021) 3P 5C