



C.M.A.No.1972 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2022

CORAM

THE HONOURABLE MS. JUSTICE P.T.ASHA

C.M.A. No.1972 of 2019

Ravikumar

... Claimant/Appellant

Vs

1. The Managing Director,
Tamil Nadu State Transport Corporation,
Kumbakonam Ltd, At Periyamilaguparai,
Trichy 620001.

2. V.Sankaran

3. The New India Assurance Company Ltd. ,
Divisional Office, 721 400
No.41-B, Victoria Street,
Tuticorin 628 001,
Rep by its Divisional Manager.

... Respondents/Respondents.

PRAYER: Petition filed under Section 173 of Motor Vehicle Act, to against the order and decreetal order in MCOP No.517/2014 dated 16-10-2018 on the file of Motor Accident Claims Tribunal /Chief Judicial Magistrate, Perambalur.

For Petitioner : Mr. S.Kamdevan
For Respondent : Mr. D.Raghu [R.1]



C.M.A.No.1972 of 2019

WEB COPY

JUDGEMENT

The claimant aggrieved by the quantum of compensation is the appellant herein. The challenge is to the award in M.C.O.P.No.517 of 2014 by the Motor Accident Claims Tribunal/Chief Judicial Magistrate Perambalur.

2. The appellant had claimed compensation of a sum of Rs.10,00,000/- for the injuries sustained by him in a road accident on 07.04.2014 involving the 1st respondent's bus. The claimant was a passenger in the said bus that was proceeding towards Tiruchy. The bus was driven in a rash and negligent manner by its driver as a result of this rash driving the driver has lost control over the vehicle and hence the bus crossed the center median block and dashed on the diesel tank portion of the 2nd respondent's goods vehicle which was insured with the 3rd respondent.

3. By reason of the injuries sustained in this accident, the appellant has approached the Tribunal. The 1st respondent had denied the fact that the



C.M.A.No.1972 of 2019

accident was caused on account of its driver's rash and negligent driving, on the contrary they would submit that the 2nd respondent lorry had come from the wrong direction and hit against the bus. Therefore, they would submit that it is the 2nd respondent who is responsible for the accident and is liable to compensate the appellant.

4. The Tribunal below after considering the evidence on record came to the conclusion that the accident occurred solely on account of the rash and negligent driving by the driver of the 1st respondent's bus. The appellant had obtained a disability certificate Ex.P.10, showing that he had sustained 35% partial permanent disability, however the Tribunal fixed disability at 20% and the income for calculating the disability on a percentage basis at Rs.3,000/- and award only a sum of Rs.60,000/- under the head of disability.

5. The learned counsel for the claimant would submit that the accident was of the year 2014 and therefore, the income should have been fixed at a sum of Rs.4,000/-. The Tribunal below ought to have assessed the disability as in Ex.P.10.



6. The learned counsel for the Transport corporation would submit that the appellant has not sustained any permanent disability even according to him he has been only working as a Tiffin Master and by no account has the injuries prevented him from continuing with his avocation. Therefore, the Tribunal has rightly assessed the disability at 20% and the amount under all the other heads were commensurate to the injuries.

7. Heard both the learned counsels.

8. Admittedly, the accident is of the year 2014 therefore, taking into consideration the years of the accident, the income for calculating the disability on a percentage basis is taken at a sum of Rs.4,000/-. The disability certificate indicates that the appellant/claimant is unable to walk on a slope and was finding it very difficult to sit crossed leg and squat. This would definitely be an impediment in his work as it requires long hours of standing. Therefore, the Tribunal ought to have assessed the disability at 25%. Further under the head of pain and suffering the Tribunal ought to have awarded a sum of Rs.30,000/- considering the fact that the petitioner had taken treatment for 33 days as in patient in the hospital, therefore the



C.M.A.No.1972 of 2019

compensation would be as follows:

WEB COPY

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1.	Injuries and disability sustained	60,000/-	1,00,000/-	Enhanced
2.	Transportation charges	10,000/-	10,000/-	Confirmed
3.	Pain and Sufferings	20,000/-	30,000/-	Enhanced
4.	Extra nourishment	10,000/-	10,000/-	Confirmed
5.	loss of income	24,000/-	24,000/-	Confirmed
	TOTAL	1,24,000/-	1,74,000/-	Enhanced by Rs.50,000/-

9. Therefore, the Civil Miscellaneous Appeal is allowed and the compensation of Rs.1,24,000/- awarded by the Tribunal is hereby enhanced by a sum of Rs.1,74,000/- together with interest @ 7.5 % per annum from the date of petition till the date of deposit. In all other aspects the award of the Tribunal is confirmed. The 1st respondent/ Transport Corporation is directed to deposit the said amount (Rs.1,74,000/-) to the credit of M.C.O.P.No.517 of 2014 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Perambalur together with interest @ 7.5% per annum from the date of claim petition till the date of deposit and costs as



C.M.A.No.1972 of 2019

awarded by the Tribunal, less, the amount, if any already deposited, within a period of six weeks from the date of receipt of a copy of this Judgement. On such deposit being made, the claimant is permitted to withdraw the amount now determined by this Court, along with interest and costs, after adjusting the amount if any already withdrawn. The claimant shall pay the court fee for the enhanced amount, if payable. The Trial Court shall not disburse the amount till such time as the certified copy showing proof of payment of the entire Court fee has been produced by the claimant. No costs.

17.03.2022

Index : Yes/No
Internet : Yes/No
Speaking / Non-Speaking
shr

To
1.Motor Accident Claims Tribunal /
Chief Judicial Magistrate,
Perambalur.

2.The Section Office,
V.R.Section,
High Court, Madras.

P.T. ASHA, J,



WEB COPY



C.M.A.No.1972 of 2019

shr

C.M.A. No.1972 of 2019

17.03.2022