

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.No.692 of 2017

and

C.M.P.No.3857 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram Division,
Villupuram.

...Appellant/Respondent

Vs.

Gandhimathi

...Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 to set aside the award passed by the Motor Accident Claims Tribunal, Krishnagiri (District and Sessions Court, Krishnagiri) made in MCOP No.672 of 2014 dated 29.01.2016.

For Appellant :Mr.K.J.Sivakumar

For Respondent :Mr.P.Dineshkumar for

Mr.Mukund R.Pandian

JUDGMENT

[Judgment of the Court was delivered by V.SIVAGNANAM, J.]

This appeal arises out of the award passed by the Motor Accident Claims Tribunal, (District and Sessions Court) Krishnagiri in MCOP No.672 of 2014 dated 29.01.2016.

2.The facts of the case in nutshell:-

This is the case of injury. On 23.06.2014, at 07.40 p.m, the respondent/claimant Gandhimathi was travelling as a passenger in a bus bearing Reg.No.TN-25-N-0236 belonging to the appellant herein. When the bus was proceeding on Krishnagiri to Thiruvannamalai Road nearing Jegadevi Bus Stand, the driver of the bus drove it in a rash and negligent manner and dashed the Tamarind tree standing on the road side. In the impact, the claimant sustained fracture and various grievous injuries all over her body. Immediately, she was taken to the Krishnagiri

Government Hospital and thereafter, transferred to the HOSMAT Hospital, Bangalore, where operation was done and rod was fixed to her. Before the accident, she was hale and healthy and she was doing Milk and Vegetable business and earning Rs.15,000/- per month. Due to the accident, she is unable to sit, stand and walk. She completely lost her physical strength. Alleging that the accident had occurred only due to the rash and negligent driver of the driver of the appellant's bus, the respondent/claimant laid a claim petition claiming compensation of Rs.30,00,000/-.

3.Resisting the claim, the appellant/Transport Corporation filed their counter disputing the manner of accident and nature of the injuries sustained by the claimant and its liability to pay the compensation. It was also contended that the claim is excessive and exorbitant.

4.To substantiate the case, on the side of the claimant, P.W.1 to P.W.4 were examined and Exs.P1 to Ex.P.10 were marked. On the side of the appellant/Transport Corporation, Driver of the offending vehicle, Narayanan was examined as R.W.1 and no document was marked.

5.The Tribunal, after considering the oral and documentary evidence, held that the driver of the appellant's bus was responsible for the accident and awarded compensation of Rs.22,48,500/- to the claimant. Assailing the award, the appellant/Transport Corporation has filed the present appeal.

6.The learned counsel appearing for the appellant/Transport Corporation would contend that fixation of the monthly income of the claimant as Rs.8000/- is erroneous and unsustainable. He would further contend that the amount granted under the head of pain and sufferings, future medical expenses, extra nourishment, loss of amenities, damage of clothes and transportation are on the higher side and it requires reduction.

7.Per contra, the learned counsel appearing for the respondent/claimant submitted that the impugned award awarding the aforesaid compensation is well reasoned and it requires no interference. Hence, he prays for dismissal of this civil miscellaneous appeal.

8.This Court carefully considered the submissions of the learned counsel for the appellant/Transport Corporation and the learned counsel appearing for the respondent/claimant and perused the materials available on record.

9. It is not disputed that when the respondent/claimant was traveling as a passenger in the appellant's bus on 23.06.2014, she met with an accident. The Tribunal also held that the accident had taken place due to the negligence of the driver of the bus and fixed the notional income of the claimant as Rs.8,000/- per month. The learned counsel for the appellant contended that the notional income of Rs.8000/- fixed by the Tribunal is on the higher side. The claimant before the Tribunal deposed that before the accident, she was doing milk and vegetable business, but in this regard, no proof was filed. The Tribunal considering the age of the claimant and nature of injuries sustained by her, fixed the notional income as Rs.8000/- and adopting correct multiplier, awarded Rs.12,48,000/- ($8000 \times 12 \times 13 \times 100/100$) under the head of disability. We are of the considered opinion that the amount awarded under the head of disability, medical expenses and towards attender charges are just and reasonable and hence, they are confirmed. With regard to the other heads viz., pain and sufferings, future medical expenses, extra nourishment, loss of amenities, damage of cloths and transportation, we are of the view that they are on the higher side and the amount awarded under the above stated heads are to be reduced. Accordingly, the compensation awarded by the Tribunal to the claimant is re-quantified as follows:-

Heads	Amount awarded by the Tribunal	Re-quantified Amount by this Court	Status
Disability 100%	12,48,000/-	12,48,000/-	confirmed
Pain and Suffering	2,00,000/-	1,00,000/-	reduced
Medical Bills	3,85,000/-	3,85,000/-	confirmed
Future Medical Expenses	1,00,000/-	50,000/-	reduced
Extra Nourishment	20,000/-	10,000/-	reduced
Attender Charges	20,000/-	20,000/-	confirmed
Loss of Amenities	2,00,000/-	1,00,000/-	reduced
Damage of Cloths	11,000/-	5,000/-	reduced
Transportation	64,500/-	50,000/-	reduced

Heads	Amount awarded by the Tribunal	Re-quantified Amount by this Court	Status
Total	22, 48,500/-	19,68,000/-	2,80,500/- is reduced

10. In such view of the matter, this Civil Miscellaneous Appeal is partly allowed. The appellant/Transport Corporation is directed to deposit the modified award amount with accrued interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the respondent/claimant is permitted to withdraw the award amount less the amount already withdrawn, if any, together with proportionate interest and costs. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

skn

To

1. The District and Sessions Judge

Motor Accident Claims Tribunal, Krishnagiri District

Copy to

The Section Officer,
V.R. Section,
Madras High Court,
Chennai.

+1 CC to Mr.K.J.Sivakumar, Advocate sr 595

+1 CC to Mukund R. Pandian, Advocate sr 831.

C.M.A.No.692 of 2017

and

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NR (CO)

SP (25/02/2022)