



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CMA.No.2334 of 2018

and

C.M.P.No.17868 of 2018

The Managing Director,
Karnataka State Road Transport Corporation,
Central Division, K.H.Road,
Bengaluru - 560 027,
Chikkaballapura Division.

...Appellant/Respondent

Vs.

R.Gangatharan

...Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 05.04.2018 passed in O.P.No.527 of 2014 on the file of the Special Sub-Judge (MACT) at Krishnagiri.

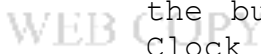
For Appellant : Mr.T.Thiyagarajan

For Respondent : Mr.M.A.Gowthaman

J U D G M E N T

The respondent / Karnataka State Road Transport Corporation in M.C.O.P.No.527 of 2014 on the file of the Special Sub-Court, Krishnagiri / Motor Accident Claims Tribunal at Krishnagiri is the appellant herein.

2.M.C.O.P.No.527 of 2014 had been filed by the respondent / R.Gangatharan, seeking compensation for the injuries suffered in a motor accident on 30.09.2012. It had been stated in the claim petition before the Tribunal that the respondent herein, was working in Medimix soap Company at Doddaballapur in Bangalore and on 30.09.2012, he along with other passengers were travelling in the Transport Corporation bus of the appellant



3. It was claimed that the driver of the bus had driven the bus in a rash and negligent manner and at around 1.00 O' Clock in the early morning, when the bus was near Jegadevi Irular Colony, the driver lost control and the bus fell into a pit. Owing to such an accident, the claimant and other passengers suffered, according to the claimant, grievous injuries. The claimant was taken to Government Hospital at Krishnagiri and it was found that he had suffered injuries in his chin, cheek, chest and in the backside of his body. The injuries can be more particularly, stated as laceration measuring 3 centimetres X 2 centimetres on the left side mandible. Claiming compensation for the injuries suffered, M.C.O.P.No.527 of 2014 had been filed by him.

5.The Tribunal took for consideration two Motor Accident Claim Original Petitions namely, M.C.O.P.No.527 of 2014 filed by the respondent herein and M.C.O.P.No.528 of 2014 filed by one G.Veerasley, another injured passenger. A common judgment was delivered on 05.08.2018. During the trial, the respondent was examined as P.W.1 and he also marked Exs.P1 to P10. The other injured person / claimant in M.C.O.P.No.528 of 2014 was examined as P.W.2. Among the documents marked, Ex.P1 was the copy of the First Information Report and Ex.P2 was the copy of the accident register. On the side of the respondent, one witness was examined as R.W.1. The Court marked Exs.C1 and C2. Ex.C2 was the disability certificate with respect to the respondent herein issued by the Medical Board.

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stretch of imagination can those two amounts be granted on the heads namely, pain and suffering and loss of amenities and enjoyment of life. In this connection, the learned counsel for the appellant had pointed out that the Tribunal itself had held that no document had been produced to show the nature of work or employment of the respondent herein or his monthly income. The only injuries suffered was the laceration in the mandible.

12.The learned counsel for the respondent however, mainly tried to justify grant of compensation on those two heads and compensation of Rs.75,000/- by stating that owing to the particular injuries which had been suffered, the respondent had suffered loss of eye sight which had also been observed by the Tribunal. But the Tribunal had no document at all present before it to state there was diminishing eye sight suffered by the respondent herein. Any finding given should be based on records. Records should be based on documents or evidence produced by the litigant. Such documents or evidence produced, should pass the test of admissibility, should be proved in manner known to law and should also be relevant. When the respondent had not thought that it was necessary to produce any documents relating to the nature of injuries and the expenses incurred owing to the injuries, it is highly inappropriate on the part of the Tribunal to grant a sum of Rs.75,000/- towards pain and suffering and another Rs.75,000/- towards loss of amenities and enjoyment of life. I am not able to comprehend what the Tribunal meant by loss of enjoyment of life and also how Rs.75,000/- can compensate and make the respondent to enjoy his life further by such compensation. Both the compensation granted under pain and suffering and loss of amenities and enjoyment of life are interfered with me and straight away the appeal is allowed with respect to the said grant of Rs.75,000/- on both the aforementioned heads.

13.The Tribunal had granted a sum of Rs.1,000/- towards damages which I would retain. The Tribunal had also granted a sum of Rs.26,000/- towards partial loss of income, which had been granted on the ground that the notional income had been determined at Rs.6,500/- and it had been given for four months. It is seen that the records reveal and even according to the claim petition itself that the claimant only took treatment and he was admitted as an inpatient on 30.09.2012 given first aid and discharged the next day. Therefore, there was no question of any medical expenses to such large extent having been incurred since he was, even during that period, admitted only to the Government Hospital at Krishnagiri. The grant of loss of income for four months, has to be interfered with and is



interfered with. Therefore, I would rework the compensation granted as follows:-

Heads	Amount
10% permanent disability (10 X 3000 = 30,000/-)	Rs.30,000/-
Medical Expenses, Transport, Nutrition & Attender Charges	Rs.10,000/-
Damages	Rs.1,000/-
Total	Rs.41,000/-

14.The Civil Miscellaneous Appeal is allowed to the extent of reducing the compensation granted from Rs.2,17,000/- to Rs.41,000/-.

15.The Tribunal had also granted at interest at 9% which again, the Tribunal should have known as a responsible adjudicating authority that the interest which can be granted in these matters is only 7.5% from the date of filing of the petition and not 9% therefore, that has to be interfered with. If any excess amount had been deposited by the appellant herein, the same may be permitted to be withdrawn by the appellant herein by filing necessary application before the Tribunal. If the amount is available with the Tribunal then, the respondent is permitted to withdraw only the compensation now granted.

16.This Civil Miscellaneous Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

kkn

To:-

The Special Sub-Court,
Motor Accident Claims Tribunal,
Krishnagiri.



Copy To

The Section Officer,
VR Section, High Court,
Madras.

+1cc to Mr.Ma.Gouthaman, Advocate SR.No.26512

+1cc to Mr.T.Thiyagarajan, Advocate SR.No.26433

CMA.No.2334 of 2018

and

C.M.P.No.17868 of 2018

GP (CO)

GN (06/05/2022)