



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **15.02.2022**

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKA RAMAN

C.M.A(MD)NOs.544 and 1163 OF 2021

and

C.M.P(MD)No.5146 of 2021

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C.M.A(MD)No.544 of 2021

M/s.Tamil Nadu State Transport Corporation Limited,
represented by its Managing Director,
No.2.Trivandrum Road,
Vannarapettai,
Tirunelveli.

... Appellant/Respondent

.vs.

Nainar

... Respondent/Petitioner

C.M.A(MD)No.1163 of 2021

Nainar

... Appellant/Petitioner

.vs.

The Tamil Nadu State Transport Corporation Limited,
through its Managing Director,
Office at No.2, Trivandrum Road,
Vannarapettai,
Tirunelveli.

... Respondent/Respondent

PRAYER in C.M.A(MD)No.544 of 2021 Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act against the award and decretal order made in M.C.O.P.No.353 of 2016, dated 2.6.2020, on the file of the Motor Accidents Claims Tribunal(Special Sub-Court), Tirunelveli.

PRAYER in C.M.A(MD)No.1163 of 2021 Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act against the Judgment and decree made in M.C.O.P.No.353 of 2016, dated 2.6.2020, on the file of the Motor Accidents Claims Tribunal(Special Sub-Court dealing with M.C.O.P. Cases), Tirunelveli.

For Appellant in :Mr.R.RAJAMOHAN, Advocate
in C.M.A(MD)No.544
of 2021 and Respondent
in C.M.A(MD)No.1163 of 2021



For Appellant

:Mr.T.Selvakumaran
in C.M.A (MD)No.1163 of 2021
and Respondent in C.M.A(MD)No.544
of 2021

COMMON JUDGMENT

C.M.A(MD)No.554 of 2021 is filed by the Transport Corporation questioning the award of the Tribunal and C.M.A(MD)No.1163 of 2021 is filed by the claimant seeking enhancement of compensation.

2.For the sake of convenience, the parties are referred to as per the ranking in C.M.A(MD)No.1163 of 2021.

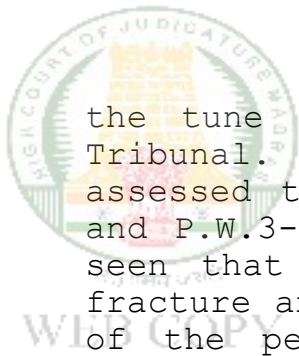
3.The claimant filed M.C.O.P.O.353 of 2016 claiming compensation for the injuries sustained by him in a Road Traffic Accident, when he was travelled in the bus of the respondent/Transport Corporation. Due to sudden apply of brake, he fell down inside the bus and sustained fracture injury over the spinal cord and hence he gave a complaint to the Police and the same is marked as Ex.P5. Ex.P12 is the Wound Certificate, wherein, it is mentioned that injury is due to the moving bus. The Tribunal, on appreciation of evidence and materials placed before it, awarded a compensation of Rs.1,72,501/- with interest at 7.5% per annum and aggrieved by the same, the claimant has filed M.C.O.P.No.1163 of 2021, seeking enhancement of compensation.

4.The Transport Corporation has filed C.M.A(MD)No.544 of 2021 stating that no First Information Report has been registered regarding the alleged accident and the amount of compensation at Rs.4000/- per percentage of disability is too high.

5.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6.Based upon Ex.P5 to Ex.P8, it is seen that the CLAIM Petitioner gave a complaint to the Police Officials and since there is no cognizable offence, no FIR has been registered and hence, the Tribunal has rightly held that the non-registration of FIR is not fatal for the claim Petition and the same does not suffer from any illegality or irregularity warranting interference by this Court. Accordingly, this Court holds that the claim petitioner had suffered injuries while he was travelled in the transport Corporation bus.

7.As to the injury caused to the claim petitioner, P.W.2-Doctor had categorically stated that the claim petitioner had suffered by fracture in spinal cord at D12 and LI and he was operated by Doctors and he was treated as inpatient at Devi Hospital from 11.7.2015 to 22.7.2015, for about 12 days. The medical bills marked as Ex.P3 to



the tune of Rs.24,501/- is already ordered to be paid by the Tribunal. P.W.3-Dr.Poovalingam has examined the claimant and assessed the disability at 20%.From the evidence of P.W.2-Doctor and P.W.3-Doctor, who had issued the Disability Certificate, it is seen that in the Spinal Cord at D12 and LI, there was a clear fracture and it will be for the remaining part of his life. In view of the percentage of fracture at D12 and LI, the disability assessed at 20% assessed by P.W.3-Doctor and confirmed by the Tribunal, need not be interfered with.

8.Considering the nature of injury sustained at D12 and LI at the advanced age of 68, I am inclined to interfere with the compensation awarded by the Tribunal. Accordingly, the attendant charges is increased from Rs.3,000/- to Rs.6000/-, pain suffering increased from 20,000/- to Rs.30,000/-and loss of amenities increased from Rs.15,000/- to Rs.25,000/-. The award under the other heads and rate of interest remains unaltered and totally there is an increase of Rs.23,000/- in the award of the Tribunal. Hence the claimant is entitled to a sum of Rs.1,72,501/- +Rs.23,000 =1,95,501/-.

9.Accordingly, the Civil Miscellaneous Appeal in C.M.A(MD) No.544 of 2021 filed by the Transport Corporation is dismissed and Civil Miscellaneous Appeal in C.M.A(MD)No.1163 of 2021 filed by the claimant is partly allowed, enhancing the compensation from Rs.1,72,501/- to Rs.1,95,501/- with interest at 7.5% p.a. from the date of claim petition till the date of realisation. (The respondent transport Corporation is directed to deposit the aforesaid award amount with accrued interest and costs, less the award amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this order.) (On such deposit being made, the claimant is permitted to withdraw the award amount, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.) No costs. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar(CS)

To

1.The Motor Accidents Claims Tribunal,
(Special Sub-Court), Tirunelveli.

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



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

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+1 cc to Mr.R.RAJAMOHAN, Advocate, SR.No.6134

+1 cc to Mr.T.SELVAKUMARAN, Advocate, SR.No.6414

COMMON JUDGMENT MADE IN
C.M.A (MD) NOS.544 and
1163 OF 2021
and
C.M.P (MD) No.5146 of 2021
Date:15.02.2022

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