



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.01.2022

CORAM:

THE HONOURABLE MRS.JUSTICE S.ANANTHI

CMA(MD)No.187 of 2018 &

CMP(MD)No.2901 of 2018

WEB COPY

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Madurai Division,
Vannarpettai,
Tirunelveli.

... Appellant/Respondent

vs.

1.Kartheesan (died)
2.Chandra
3.Vigranth
4.Narthana Saraiyu

... Respondents

(Respondents 2 to 4 are brought
on record as LRs of the deceased
sole respondent vide Court
order dated 08.03.2018 in
CMP(MD)Nos.6496 to 6498 of 2017)

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the Judgment and decree dated 20.01.2014 in MCOP.No.286 of 2011 on the file of the Motor Accident Claims Tribunal, Additional Subordinate Court, Tirunelveli.

For Appellant

:Mr.P.Prabhakaran

For Respondents

:Mr.T.Selvakumar for R2 to R4

J U D G M E N T

The Transport Corporation has filed this appeal to set aside the Judgment and decree dated 20.01.2014 in MCOP.No.286 of 2011 on the file of the Motor Accident Claims Tribunal, Additional Subordinate Court, Tirunelveli.

2. On 27.12.2010, at about 07.15 am, the deceased first respondent / claimant was riding a two wheeler bearing Registration No. TN 74 X 6314 from Nanguneri to Thisayanvilakku. At that time, a bus bearing Registration No.TN 74 N 745, belonging to the Transport Corporation came in a rash and negligent manner and and hit the two wheeler, as a result of which, the first respondent / claimant was thrown away from the vehicle and sustained grievous injuries all over his body. Hence, the first respondent / claimant filed MCOP.No.286/2011 claiming compensation for the injuries sustained by him.



3. The Tribunal after analysing the evidence on record, awarded a compensation of Rs.10,84,658/- together with interest at the rate of 7.5% per annum to the first respondent / claimant. Challenging the award passed by the Tribunal, the appellant has filed this appeal.

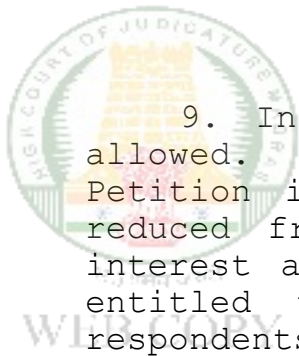
4. The first respondent / claimant died on 16.05.2016 and hence his legal heirs were brought record as respondents 2 to 4.

5. The learned counsel appearing for the appellant would submit that the Tribunal was wrong in adopting multiplier method for an injury case. The Tribunal has awarded a sum of Rs.2,57,400/- under the head future loss of income and also awarded Rs.12,000/- under the head loss of income during treatment period, which is double compensation and the same has to be set aside. The compensation awarded under other heads are also on the higher side and prayed for reducing the same.

6. The learned counsel appearing for the respondents 2 to 4 would submit that the Tribunal taking into consideration all the aspects, has awarded a just compensation and the same need not be reduced.

7. A perusal of the records shows that the first respondent / claimant sustained fractures on his left leg, thigh, left foot and grievous injuries all over his body. From the deposition of Dr.Ramaguru PW2, it is seen that the first respondent / claimant had undergone many surgeries. The Doctor has stated that the first respondent / claimant's left shoulder joint was dislocated and left leg was bent and short by 6 cm. He has assessed the partial permanent disability at 65%. From the nature of fractures and injuries sustained by the first respondent / claimant and from the fact that he had undergone many surgeries, it can be concluded that he would not be in a position to continue his work as efficiently as before. Hence, the Tribunal has rightly applied multiplier method and calculated the loss of income as Rs.2,57,400/- and there is no need to interfere with the same. However, a sum of Rs.12,000/- awarded towards loss of income during treatment period is unnecessary, since, compensation under the head loss of income was already granted by applying multiplier method. Hence, this Court is inclined to set aside the compensation of Rs.12,000/- awarded towards loss of income during treatment period. All the other heads awarded by the Tribunal are just and reasonable and they are hereby confirmed.

8. At this juncture, the learned counsel for the appellant would submit that they have deposited the entire compensation amount before the Tribunal.



9. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, the connected Miscellaneous Petition is closed. The compensation awarded by the Tribunal is reduced from Rs.10,84,658/- to Rs.10,72,658/- which would carry interest at the rate of 7.5% per annum. The second respondent is entitled to a sum of Rs.6,72,658/-. The third and fourth respondents are entitled to a sum of Rs.2,00,000/- each. Since the entire amount was already deposited, the respondents 2 to 4 are at liberty to withdraw their share of compensation along with proportionate interest and costs, after following due process of law. The appellant is at liberty to withdraw the excess amount already deposited by them ie., 12,000/- together with proportionate interest and costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

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Sub Assistant Registrar(CS)

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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
The Additional Subordinate Judge,
The Motor Accident Claims Tribunal,
Tirunelveli.

COPY TO:-

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1 CC to M/s.P.PRABHAKARAN, Advocate (SR-117[F] dated 04/01/2022)

+1 CC to M/s.T.SELVAKUMARAN, Advocate (SR-616[F] dated 06/01/2022)

CMA(MD)No.187 of 2018

04.01.2022

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