



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2022

CORAM:

THE HONOURABLE MRS.JUSTICE S.ANANTHI

CMA (MD) No.8 of 2018

WEB COPY
Veerasamy

... Appellant/Claimant

Vs.

The Divisional Manager,
The Tamil Nadu State Transport
Corporation Ltd.,
Kumbakonam,
Thanjavur.

... Respondent/Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow the appeal by restricted the compensation in M.C.O.P.No.491 of 2006, dated 30.11.2010 on the file of the Motor Accidents Claims Tribunal/Additional Sub Judge, Thanjavur.

For Appellant	: Mr.G.Karnan
For Respondent	: Mr.P.Prabhakaran

JUDGMENT

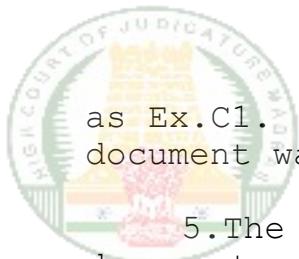
Aggrieved over the Award of the Tribunal, the appellant filed this appeal to enhance the compensation awarded in M.C.O.P.No.491 of 2006, dated 30.11.2010 on the file of the Motor Accidents Claims Tribunal/Additional Sub Judge, Thanjavur.

2. The case of the claimant, in nutshell, is as follows:

On 16.07.2005, while the petitioner was riding a two wheeler bearing Registration No.TVS50 TN-49-A-9380 from Thanjavur, at about 1.00 p.m. when he was nearing Mannarkudi - Pattukottai approach road, a passenger bus, bearing Registration No.TN-49-N-0970 came from north to south driven by its driver in a rash and negligent manner, dashed against the petitioner. Due to this accident, the petitioner sustained injuries and was taken to the Vinothakan Hospital and admitted as inpatient.

3.The claimant has filed the claim petition in M.C.O.P.No.491 of 2006 on the file of the Motor Accidents Claims Tribunal/Additional Subordinate Judge, Thanjavur, seeking compensation of Rs.20,00,000/-

4.Before the Tribunal, on the side of the claimant. four witnesses were examined as P.W.1 to P.W.4 and nineteen documents were marked as Exs.P.1 to P.19 and one witness document was marked



as Ex.C1. On the side of the respondent, no one was examined and no document was marked.

5.The Tribunal, after considering the pleadings, oral and documentary evidences and the arguments of the counsel for the claimant and the respondent and also on appreciating the evidences on record, held that the accident occurred only, due to the rash and negligent driving of the driver of the respondent and directed the respondent/State Transport Corporation Ltd., to pay a sum of Rs.5,97,046/- as compensation. Aggrieved over the orders passed by the Tribunal, the claimant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

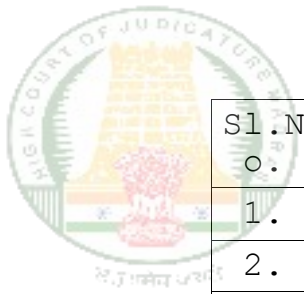
6.Heard Mr.G.Karnan, learned counsel appearing for the appellant and Mr.P.Prabhakaran, learned counsel appearing for the respondent.

7.The learned counsel for the appellant contended that at the time of accident, the claimant was working as a Fire Service man, due to that accident, he unable to do his previous work and he was retired from his service. He further contended that the Tribunal has failed to consider Ex.P17, Wound Certificate of 35% of disability on the ground of post traumatic headache, behavioral problem, memory loss, speech disturbance (slow) and giddiness. Therefore he prayed for enhancement of compensation.

8.A perusal of records would show that at the time of accident, the appellant was working as a Fire Man and earned Rs.30,000/- per month. Due to head injury and fracture in a left hip, he is unable to do previous work. So he was voluntarily retired from his service and received Rs.6,500/- as pension. Regarding permanent disability, Dr.Swaminathan (PW2) had assessed the partial permanent disability as 35% and Dr.Rethinasapapathy (PW3) had assessed the partial permanent disability as 37%, the Tribunal has fixed as 46% of disability. Hence, this Court fixed the disability as 37% . As per evidence of PW4, due to accident, the claimant retired from his service. So, loss of income has to be fixed by applying multiplier method. Therefore, loss of income arrived at $\text{Rs.6,500/-} \times 12 \times 11 \times 37/100 = \text{Rs.3,17,460/-}$. Since loss of income calculated by multiplier method, the Tribunal already awarded loss of income for 2 ½ years and 7 years are deleted. The Tribunal has awarded only a meagre sum of Rs.25,000/- for pain and sufferings. Since the claimant sustained grievous injury all over the body and also head injury and rod also fixed, this Court awarded Rs.50,000/- towards pain and suffering and Rs.25,000/- towards future medical expenses. Except the above, all the other terms of the award passed by the Tribunal is confirmed.

9.Accordingly, the claimant is entitled for compensation as follows:

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



Sl.N o.	Compensation heads	Details of amount
1.	Loss of income	Rs. 3,17,460/-
2.	Pain and sufferings	Rs. 50,000/-
3.	Extra Nourishment and Transportation	Rs. 25,000/-
4.	Attendant Charges	Rs. 16,000/-
5.	Medical Bills	Rs. 2,51,046/-
6.	Future Medical Expenses	Rs. 25,000/-
	Total	Rs. 6,84,506/-

10. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.5,97,046/- to Rs.6,84,506/- with interest at the rate of 7.5% per annum.

(iii) The respondent/State Transport Corporation Ltd., is directed to deposit the enhanced compensation amount i.e., Rs.6,84,506/- (Rupees Six lakhs eighty four thousand five hundred and six) less the amount already deposited, if any, together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP.No.491 of 2006 on the file of the Motor Accident Claims Tribunal /Additional Sub Judge, Thanjavur, within a period of six weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the claimant is permitted to withdraw the same after following due process of law. No Costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsd

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

1.The Motor Accidents Claims Tribunal/
Additional Sub Judge,
Thanjavur.

<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 M/s.P.PRABHAKARAN, Advocate (SR-2641[F] dated 27/01/2022)

CMA (MD) No.8 of 2018
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RD(04.03.2022) 4P 5C