



C.M.A(MD)No.137 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 17.10.2022

Pronounced on : 11.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE **R.THARANI**

C.M.A(MD)No.137 of 2014

M/s.Tamil Nadu State Transport Corporation Limited,
Periyamilaguparai,
Trichy -1.

...Appellant / Respondent

Vs

Ponnusamy

... Respondent / Petitioner

PRAYER :-

This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988, to set aside the judgment and decree passed by the Motor Accident Claims Tribunal, III Additional Sub Court, Tiruchirapalli, in M.C.O.P.No.247 of 2010 dated 20.09.2012.

For Appellant : Mr.D.Sivaraman

For Respondent : N.Sudhagar Nagaraj



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JUDGMENT

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This Civil Miscellaneous Appeal is filed against the order in M.C.O.P.No.247 of 2010 on the file of the Motor Accident Claims Tribunal / III Additional Sub Court, Tiruchirapalli. The appellant herein is the respondent, the respondent herein is the petitioner in the claim petition.

2.Brief substance of the claim petition is as follows:

On 16.05.2007 at about 4.30 am, when the petitioner was working as a conductor in the respondent vehicle, the driver drove the vehicle in a rash and negligent manner along the Thoothukudi – Ettayapuram main road, near Valasamudram and dashed against the bridge and the bus capsized. The petitioner sustained injuries, he was admitted in Thoothukudi Medical College Hospital. He took treatment as inpatient for two days and then he was admitted in Tirunelveli CSI hospital as inpatient for the period of 45 days and thereafter he took treatment in a private hospital. The petitioner was earning Rs.13,705/- and after the accident he could not continue his work as before. The petitioner claims a sum of Rs.3,00,000/- as compensation.



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3. Brief substance of the counter filed by the second respondent is as follows:

The petitioner has to prove the age, avocation and income. The respondent driver was not responsible for the accident. The petitioner has to prove the injuries, period of treatment, mode of treatment and medical expenses. The interest claimed is excessive.

4. Two witnesses were examined and nine documents were marked on the side of the petitioner. No witness was examined and no document was marked on the side of the respondent. The Tribunal has awarded at Rs.3,35,865/- as compensation to be paid by the respondent.

5. Against the award, the appellant preferred this appeal on the following grounds:

The accident did not take place due to the negligence of the driver of the bus and hence the appellant is not liable to pay compensation. The Tribunal has awarded Rs.95,935/- towards loss of income. For a period of seven months, the Tribunal has awarded Rs.72,000/- for 36% of disability, without considering the fact that the disability certificate was issued by a



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Doctor who did not give any treatment to the petitioner. The Tribunal has awarded Rs.25,000/- for pain and sufferings, Rs.10,000/- for transport expenses, Rs.5,000/- for extra nourishment, Rs.1,00,000/- for mental agony, Rs.19,670/- towards medical expenses which are all excessive. The Tribunal awarded a sum of Rs.1,00,000/- towards mental agony due to departmental enquiry, which is beyond the jurisdiction of the Tribunal. Though the petitioner has claimed only Rs.3,00,000/-, the Tribunal has awarded Rs. 3,35,865/- which is excessive.

6.On the side of the appellant, it is stated that the injured is a conductor on duty and that the bus dashed against a tree. On the basis of the evidence of P.W.1 and P.W.2 and on the basis of Ex.P.1-First Information Report, the Tribunal has decided that the accident has happened due to the negligence of the driver of the bus. The decision of the Tribunal is reasonable.

7.The Doctor has fixed the disability at 39% but P.W.2 Doctor did not give any treatment to the petitioner. The Tribunal has fixed the disability as 36%. On the basis of the evidence of P.W.2 and Ex.P8 and Ex.P9, it is decided that disability at 36% fixed by the tribunal, is reasonable.



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8.The accident has took place in the year 2007 and hence it is decided that the petitioner is entitled to Rs.2000/- per percentage of disability. The Tribunal has awarded Rs.2000/- per percentage of disability and awarded Rs.72,000/- towards permanent disability which is reasonable.

9.The Tribunal has awarded Rs.19,670/- on the basis of Ex.P4 and Ex.P5. The Tribunal awarded Rs.25,000/- towards pain and sufferings. Rs. 10,000/- towards transport expenses. Rs.5,000/- towards extra nourishment, which are reasonable.

10.On the side of the appellant it is stated that the Tribunal is wrong in awarding Rs.1,00,000/- towards mental agony. On the side of the claimant it is stated that when the petitioner sustained injury and he was fighting for his life, the respondent has initiated disciplinary action for the missing of the ticket book and the collection amount. The appellant Corporation has collected the amount for the missing tickets and collection amount, from the salary of the petitioner and the document was marked as Ex.P7. It is further stated that when a person was fighting for his life, he could not be in a



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position to hand over the ticket book or the collection amount and that taking such an action against the petitioner creates severe mental agony and that the petitioner is entitled for compensation for mental agony.

11.Only due to the accident, the petitioner was not able to submit the ticket book and the collection amount. Only due to the accident, the disciplinary proceedings was initiated against him which cause mental agony. In the above circumstances, it is decided that the award of compensation for mental agony is reasonable.

12.For the above said reasons, it is decided that there is nothing sufficient grounds to interfere with the orders of the Tribunal. Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs.

(i) The quantum of compensation awarded by the Tribunal is confirmed at Rs.3,35,865/- (Rupees Three Lakhs Thirty Five Thousand Eight Hundred and Sixty Five only) which shall carry interest at the rate of 7.5% per annum.

(ii) The appellant, is directed to deposit the entire compensation of Rs.3,35,865/- (if not already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and



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proportionate costs to the credit of M.C.O.P.No.247 of 2010 on the file of the Motor Accidents Claims Tribunal / III Additional Sub Court, Tiruchirapalli, within a period of eight weeks from the date of receipt of a copy of this order.

(iii) On such deposit being made by the appellant, the respondent herein/ claimant is permitted to withdraw the entire award amount of Rs.3,35,865/- (Rupees Three Lakhs Thirty Five Thousand Eight Hundred and Sixty Five only) along with proportionate interest as apportioned by the Tribunal.

11.11.2022

Index: Yes / No
Internet : Yes / No

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To

- 1.The Motor Accidents Claims Tribunal / III Additional Sub Court,
Tiruchirapalli.
- 2.The Record Keeper, Vernacular Records,
Madurai Bench of Madras High Court, Madurai.



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