



CMA(MD) No.223 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On : 26.08.2022

Delivered On : 02.11.2022

CORAM:

THE HONOURABLE MRS.JUSTICE R.THARANI

C.M.A(MD)No.223 of 2016

The Managing Director,

Tamil Nadu State Transport Corporation,

Madurai Division – 2.

No.2, South Bye Pass Road,

Vannarpettai, Tirunelveli.

.... Appellant / Respondent

Vs.

Packiaraj

... Respondent / Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.No.111 of 2012, dated 18.12.2012, on the file of Motor Accident Claims Tribunal – Chief Judicial Magistrate, Tirunelveli.

For Appellant : Mr.P.Prabhakaran

For Respondent : No appearance



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J U D G M E N T

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This Civil Miscellaneous Appeal is filed against the award, made in M.C.O.P.No.111 of 2012, dated 18.12.2012, on the file of Motor Accident Claims Tribunal – Chief Judicial Magistrate, Tirunelveli. The appellant herein is the respondent and the respondent herein is the claimant in the original M.C.O.P. Petition.

2. Brief substance of the claim petition, in M.C.O.P.No.111 of 2012, is as follows:

On 07.02.2012, at about 9.00 am., when the petitioner was riding a two wheeler without a Registration number, along the Tiruchendur to Tirunelveli main road, near Aalvarthirunagari, in a slow and cautious manner, keeping the extreme left side of the road, a bus bearing Registration No.TN-74-N-1557 was driven by its driver in a rash and negligent manner, dashed against the two wheeler. The claimant sustained injuries. He was taken to Tirunelveli Medical College Hospital, then he was admitted in Tirunelveli BELL private hospital as inpatient, he was working as a Mason and was earning Rs.9,000/- per month. The petitioner claimed a sum of Rs.7,00,000/- as compensation.



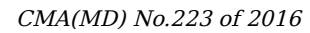
3. Brief substance of the counter filed by the respondent, in

M.C.O.P.No.111 of 2012, is as follows:

It was the petitioner, who drove the two wheeler in a rash and negligent manner and dashed against the bus. On seeing the petitioner coming in a rash and negligent manner, the driver of the bus keeping the extreme left side has applied the brake. Even then, the petitioner could not control the speed and he dashed against the right side pumper of the bus. The respondent's driver is not responsible for the accident. The age, profession, income, mode of accident, nature of injuries, nature of treatment, medical expenses are all denied. The claim is excessive.

5. On the side of the claimants, 3 witnesses were examined and 7 documents were marked. On the side of the respondents, 1 witness was examined and no document was marked. After considering both sides, the Tribunal has awarded a sum of Rs.7,39,993/- as compensation.

6. Against the order, the appellant has filed this appeal on the following grounds:-



7. On the side of the appellant, it is stated that the vehicle was not registered and that the claimant is not entitled to ride the vehicle. It is also stated that the claimant, who rode the vehicle in a rash and negligent manner, crashed against the bus.

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wrong in applying multiplier method. The Tribunal has fixed the monthly income as Rs.4,000/- and adopted multiplier method. It is stated that the multiplier '17' is not applicable and only multiplier '16' is applicable.

9. Though the name of the respondent was printed, there was no representation on the side of the respondent. Hence, no oral argument on the side of the respondent is recorded and the order is passed on merits.

10. Except the driver of the vehicle, no witness was examined on the side of the respondent. F.I.R was registered only against the driver. Considering the evidence of P.W.2 and considering Ex.P1, the Tribunal fixed the liability on the bus driver, which is reasonable.

11. The Tribunal fixed the income as Rs.4,000/- per month, which is reasonable. The age of the claimant is fixed at 35 years and the correct multiplier to be applied is '16'. Hence, the loss of income is calculated at Rs.4,99,200/- (Rs.4000/- X 60% X 12 X 16 = Rs.4,99,200/-).



12. The Tribunal has awarded Rs.1,42,593/- towards medical expenses, Rs.3,000/- towards transport expenses, Rs.4,000/- towards extra nourishment, which are all reasonable.

13. The Tribunal has awarded Rs.20,000/- towards attender charges, Rs.40,000/- towards pain and sufferings, which are excessive. Hence, it is decided that the claimant is entitled to Rs.10,000/- towards attender charges, Rs.20,000/- towards pain and sufferings.

14. The total compensation is calculated as follows:-

Loss of income	:	Rs.4,99,200/-
Medical expenses	:	Rs.1,42,593/-
Transport expenses	:	Rs. 3,000/-
Extra nourishment	:	Rs. 4,000/-
Attender charges	:	Rs. 10,000/-
Pain and sufferings	:	Rs. 20,000/-
Total compensation	:	Rs.6,78,793/-

The same is rounded off to Rs.6,78,800/-.



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15.This appeal is partly allowed. No costs. The compensation is reduced from Rs.7,39,993/-to Rs.6,78,800/-

(i) The claimant is entitled to Rs.6,78,800/-

(ii) The appellant - Transport Corporation, is directed to deposit the entire compensation of Rs.6,78,800/- (if not already deposited) together with proportionate interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and with costs, 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 Transport Corporation, the respondent / claimant is permitted to withdraw the entire award amount along with interest and costs, on filing of proper petition before the Tribunal, less any amount, if already withdrawn by him. The Claimant is not entitled for interest for the default period, if there is any default. Excess amount, if any, shall be refunded to the Transport Corporation.

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R.THARANI.,J.

Ls

To

1.The Motor Accident Claims Tribunal –
Chief Judicial Magistrate,
Tirunelveli.

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

Pre-delivery Judgment in
C.M.A(MD)No.223 of 2016

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