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C.M.A.No.221 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2023

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THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.221 of 2015

and

M.P No.1 of 2015

The Managing Director
Tamil Nadu State Transport Corporation Ltd.,
Thennimalai,
Thiruvannamalai Region.

.. Appellant

Vs.

Natarajan

.. Respondent

Prayer: The Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgement and decree dated 21.07.2014 passed in MCOP No.50 of 2013 on the file of the Special Judge, Motor Accident Claims Tribunal, Thiruvannamalai, Thiruvannamalai District.

For Appellant : Mr.K.J.Siva Kumar

For Respondent : No Appearance



C.M.A.No.221 of 2015

J U D G M E N T

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The Civil Miscellaneous Petition on hand is preferred against the judgment and decree passed in MCOP No.50 of 2013 dated 21.07.2014 by the Motor Accident Claims Tribunal, Thiruvannamalai.

2. The Tamil Nadu State Transport Corporation Ltd., who filed this appeal questioning the quantum of compensation awarded by the Motor Accident Claims Tribunal.

3. The Tribunal under the impugned award has directed the Transport Corporation to pay the respondent/claimant, a compensation of Rs.5,66,200/- together with interest and costs as detailed hereunder:

<i>Heads</i>	<i>Award Amount (Rs.)</i>
Future Loss of Income (4500 x 12x13x60%)	4,21,200/-
Pain, suffering & grief	25,000/-
Medical Expenses	20,000/-



<i>Heads</i>	<i>Award Amount (Rs.)</i>
Extra Nourishment	10,000/-
Attender charges	20,000/-
Transport charges	20,000/-
Loss of amenities	50,000/-
Total	5,66,200/-

4. Before the Tribunal, the claimant has filed 4 documents which were marked as Ex.P1 to Ex.P4 and two witnesses were examined on his side namely, the claimant himself as PW1 and the Doctor, who examined the claimant, as PW2. On the side of the Appellant/Insurance Company, two witnesses were examined as RW1 and RW2 and one document was marked as Ex.R1.

5. The learned counsel appearing on behalf of the appellant mainly contended that the Tribunal has awarded excess compensation under various heads and the monthly income of the respondent fixed at Rs.4,500/- is highly excessive and the amount granted for mental agony is also excessive.



C.M.A.No.221 of 2015

This apart, as far as the negligence aspect is concerned, the respondent has tried to get out of the clutches of the police while he was proceeding for the remand and he has got in contact of the moving bus and he suffered injury when he tried to get into the bus. The police had registered the case against the respondent, but the same was not taken into consideration by the Tribunal while fixing the liability on the part of the respondent. At the outset, it is contended that the over all compensation granted by the Tribunal is exorbitant and not in commensuration with the gravity of the injuries sustained by the respondent/claimant.

6. Though the notice has been served to the respondent/claimant, he had not entered appearance before this Court.

7. The accident occurred on 01.11.2009 at about 7.00 p.m, opposite to Tamilmani Hospital, Mathalakulam Street, Tiruvannamalai City. The Tiruvannamalai East Police Station registered a case in Crime No.1866 of 2009 under Sections 224, 279 and 338 IPC. The respondent/claimant

4 / 8



sustained multiple grievous injuries in his left leg foot, hip and amputation in right leg which resulted in permanent disablement. He had taken treatment as inpatient for which Ex.P4 discharge summary was filed. Thereafter, the claim petition was filed. The Tribunal adjudicated the issues with reference to the documents and evidences produced by the respective parties. As far as the negligence is concerned, the Tribunal based on the oral evidence and FIR-Ex.P1 document, has rightly arrived a conclusion that the accident occurred due to the rash and negligent driving of the driver of the bus bearing Registration No.TN-23-N-1493 belonging to the appellant/Transport Corporation. Thus, the appellant/Insurance Company was directed to pay compensation to the respondent/claimant.

8. Insofar as the quantum of compensation awarded by the Tribunal is concerned, this Court has perused the pleadings and evidence adduced by the respective parties. In the claim petition, the respondent/claimant has claimed that he was aged 47 years and he was a building maistry at the time of the accident and was earning Rs.10,000/- per month. But, no proof of



C.M.A.No.221 of 2015

income has been filed by the respondent/claimant. However, considering the rise in cost of living and other related factors, the Tribunal has rightly assessed the monthly income of the claimant at the time of the accident as Rs.4,500/-. Therefore, there is no scope for interference with regard to the said assessment. As per the *Sarla Verma* case, the Tribunal has rightly applied the correct multiplier since the claimant was aged 47 years at the time of the accident. Taking an overall view, this Court is of the considered view that the compensation awarded by the Tribunal is a just compensation and there is no scope for interference by this Court.

9. For the foregoing reasons, there is no merit in this appeal. Accordingly, this appeal is dismissed. The Appellant/Transport Corporation is directed to deposit the Award amount together with interest from the date of claim till the date of deposit and costs as assessed by the Tribunal after deducting the amount already deposited, if any to the credit of MCOP.No.50 of 2013 within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to



C.M.A.No.221 of 2015

transfer the award amount along with accrued interest to the bank account of the respondent/claimant through RTGS within a period of two weeks thereafter. Consequently, connected miscellaneous petition is closed. No costs.

23.01.2023

Index : Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
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To

1.The Special Judge,
Motor Accident Claims Tribunal,
Thiruvannamalai.

2.The Section Officer,
V.R Section,
High Court, Madras.



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C.M.A.No.221 of 2015

A.A.NAKKIRAN, J

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