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CMA.No.2007 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CMA.No.2007 of 2013

MP.No.1 of 2013

The Managing Director  
Tamil Nadu State Transport Corporation Limited  
Villupuram

Appellant

Vs

1. K.Govindarajan  
2. Durairangam

Respondents

Prayer:- This Civil Miscellaneous Appeal has been filed, against the judgement and decree, dated, 06.07.2012, made in MCOP.No.85 of 2011, by the Sub Court (MACT) Chidambaram.

For Appellant : Mr.S.S.Santhosakumar

For Respondents : Mr.T.Gobinath-R1

### JUDGEMENT

1. This Civil Miscellaneous Appeal has been filed, by the Tamil Nadu State Transport Corporation Limited, against the judgement and decree, dated, 06.07.2012, made in MCOP.No.85 of 2011, by the Sub Court (MACT) Chidambaram.



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2. The 1st Respondent /claimant has filed the claim petition before the Tribunal, seeking a compensation of Rs.5,00,000/- on various heads, for the injuries sustained by him in a motor road accident, which took place on 10.12.2009. The 2nd Respondent is the Driver of the Offending Bus. The claim petition was resisted, on various grounds, by the Appellant Corporation, by filing a counter, adopted by the 2nd Respondent. On the side of the claimant, PW.1 and PW.2 were examined and Ex.P1 to Ex.P12 were marked. On the side of the Appellant Corporation, RW.1 was examined. MO.1 was marked.
3. Finding that the accident had occurred due to the rash and negligent driving of the driver of the offending Bus, belonging to the Appellant Corporation, the Tribunal has awarded a total compensation of Rs.2,15,000/- with interest at 7.5% p.a. from the date of the claim petition till the date of realization, as detailed below:-

| S.No                      | Category                                  | Award Amount (Rs.) |
|---------------------------|-------------------------------------------|--------------------|
| 1                         | Loss of Income for 10 months (Rs.6000x10) | 60000.00           |
| 2                         | Medical and Transportation Expenses       | 10000.00           |
| 3                         | Extra Nourishment                         | 10000.00           |
| 4                         | Medical Expenses                          | 4000.00            |
| 5                         | Attendants Charges                        | 10000.00           |
| 6                         | Pain and Suffering                        | 75000.00           |
| 7                         | Disability (46%) (1000x46)                | 46000.00           |
| <b>Total Compensation</b> |                                           | <b>215000.00</b>   |

Aggrieved by the quantum of compensation, this appeal has been filed by the Appellant Insurance Company.

4. This Court heard the learned counsel for the Appellant and also perused the entire materials placed on record.



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5. Since there is no quarrel over the negligence aspect and the dispute is only with regard to the quantum of compensation, the finding of the Tribunal with respect to the negligence aspect is confirmed and also, it is not necessary to narrate the entire facts in detail in respect of the accident.
6. According to the learned counsel for the Appellant, the notional monthly arrived at by the Tribunal Rs.6,000/- is not proper and hence, it needs to be reduced. According to the learned counsel for the 1st Respondent, the impugned award is just and proper.
7. The accident took place in the year 2009. According to the claimant, he was doing mason work and earning a sum of Rs.200/- per day. As per Ex.P3 accident register, the claimant suffered fracture on his right leg and undergone surgeries as per Ex.P4, discharge summary. Considering the nature of injuries, the Tribunal rightly held that the claimant would not have earned by doing mason work at least for a period of 10 months. However, in the absence of evidence to prove the monthly income of the claimant, the Tribunal fixed his monthly income at Rs.6,000/-, which is not proper and it could be fixed at Rs.5,000/-. Accordingly, the loss of income for 10 months would come to Rs.50,000/- (Rs.5,000x10). Considering the nature of injuries, the compensation awarded by the Tribunal under other various heads shall stand confirmed.
8. In the result, this Civil Miscellaneous Appeal is partly allowed. In all, the claimants is entitled to a total compensation of Rs.2,05,000/- (Rupees two



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lakhs five thousand only) with interest 7.5% p.a. from the date of the claim petition till the date of realisation, as detailed below:-

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| S.No                      | Category                                  | Award Amount (Rs.) |
|---------------------------|-------------------------------------------|--------------------|
| 1                         | Loss of Income for 10 months (Rs.5000x10) | 50000.00           |
| 2                         | Medical and Transportation Expenses       | 10000.00           |
| 3                         | Extra Nourishment                         | 10000.00           |
| 4                         | Medical Expenses                          | 4000.00            |
| 5                         | Attendants Charges                        | 10000.00           |
| 6                         | Pain and Suffering                        | 75000.00           |
| 7                         | Disability (46%) (1000x46)                | 46000.00           |
| <b>Total Compensation</b> |                                           | <b>205000.00</b>   |

The Appellant Transport Corporation Company is directed to deposit the entire award amount with interest at 7.5% p.a. from the date of the claim petition till the date of deposit, after deducting the amount, if any already, deposited, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the claimant is entitled to withdraw the same with interest, by filing proper application. No costs. Consequently, the connected MP is closed.

26.06.2023

Index:Yes/No  
Web:Yes/No  
Speaking/Non Speaking  
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To

1. The Sub Court (MACT) Chidambaram
2. The Record Keeper, VR Section, High Court, Madras

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