



C.M.A.Nos.2410 of 2012 & 3774 of 2013

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.Nos.2410 of 2012 & 3774 of 2013

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
(Kumbakonam) Pudukottai. ... Appellant in C.M.A.No.2410 of 2012 &
2nd Respondent in C.M.A.No.3774 of 2013

Vs.

1.T.Balakrishnan ... 1st Respondent in C.M.A.No.2410 of 2012
& Appellant in C.M.A.No.3774 of 2013

2.K.Rangasami ... 2nd Respondent in C.M.A.No.2410 of 2012
& 1st Respondent in C.M.A.No.3774 of 2013

3.Dr.K.Ayyavoo ... 3rd Respondent in both appeals

Prayer in both appeals : Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the award made in M.C.O.P.No.379 of 2009 dated 11.08.2010 on the file of Motor Accidents Claims Tribunal, Principal Sub Judge, Erode.

C.M.A.No.2410 of 2012

For Appellant : Mr.M.Murali Vinodh

For Respondents : Mr.S.Thangavel [R1]
Given up [R2]
No appearance [R3]



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C.M.A.No.3774 of 2013

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For Appellant : Mr.S.Thangavel
For Respondents : Not Ready in Notice [R1 & R3]
Mr.M.Murali Vinodh [R2]

COMMON JUDGMENT

Aggrieved by the award passed by the Motor Accidents Claims Tribunal, Principal Sub Judge, Erode, the Transport Corporation has filed C.M.A.No.2410 of 2012. For enhancement of compensation, the claimants have filed C.M.A.No.3774 of 2013. Since both the appeals arising out of the same award, these appeals are disposed of by way of this common judgment.

2. For brevity, the appellant in C.M.A.No.2410 of 2012 is hereinafter referred to as Transport Corporation and the appellant in C.M.A.No.3774 of 2013 is hereinafter referred to as claimant.

3. The facts in brief are as follows :-

(i) On 08.02.2009 at about 12.15 a.m., when the claimant along with his friends were returning from Palani Temple in a Maruti Car bearing Reg.No.TN 38 A 4110, which was driven by one Sankar @ Gowtham and



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proceeding from South to North on the Palani – Tharapuram Road near Ganapathy Nagar, the driver of the bus bearing Reg.No.TN 55 N 0454, which was owned by the Transport Corporation, driven the bus in a rash and negligent manner and coming in the opposite direction, dashed against the car, in which the claimant was travelling, thereby, the driver of the car died on the spot and the claimant sustained grievous injuries all over his body. Thereafter, the claimant was admitted in Dr.K.M.Nallasami Hospital, Erode and taken treatment as inpatient from 08.02.2009 to 02.03.2009. Therefore, he filed a claim petition claiming of a sum of Rs.8,67,421/- as compensation for the injuries sustained by him.

4. Before the Tribunal, the claimant has examined himself as P.W.1 and examined the doctor as P.W.2 and one Baskar as P.W.3 and marked Ex.P.1 to Ex.P.10. On the side of the respondents, one Rangasamy was examined as R.W.1 and no document was marked. After adjudication, the Tribunal has awarded a sum of Rs.2,21,449/- under various heads. Aggrieved by the same, both the claimant and the Transport Corporation have filed the present appeals.



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5. The learned counsel appearing for the Transport Corporation submitted that, apart from awarding Rs.1000/- per percentage of disability, the Tribunal had awarded a sum of Rs.60,000/- towards grievous injuries and Rs.70,000/- towards simple injuries. For the injuries sustained by the claimant, the Tribunal had awarded compensation under two heads, which is not sustainable and the same is highly excessive and not in terms of the decisions rendered by the Apex Court as well as this Court. Further, he submitted that the driver of the car driven the vehicle in a rash and negligent manner and dashed against the Transport Corporation's bus. However, without considering the negligence on the part of the car, the Tribunal has fastened the entire liability as against the Transport Corporation, which is not sustainable. Accordingly, he prays for allowing the appeal filed by the Transport Corporation and dismissal of the appeal filed by the claimant.

6. Per contra, the learned counsel appearing on behalf of the claimant submitted that, the claimant travelled as a passenger in the car, which was driven by its driver, namely Gowtham. However, the driver of the Transport Corporation driven the bus in a rash and negligent manner and dashed against the car, thereby, the driver of the car died on the spot and the



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claimant sustained grievous injuries and he had taken treatment in the private hospital for more than a month. Even thereafter, he is continuously taking treatment from the hospital. However, the Tribunal awarded a sum of Rs.2,21,449/- as compensation, which is meagre and the same has to be enhanced in terms of the guidelines issued by the Apex Court as well as this Court. Accordingly, he prays for allowing the appeal filed by the claimant and dismissal of the appeal filed by the Transport Corporation.

7. Heard the learned counsel appearing for the claimant and the learned counsel appearing on behalf of the Transport Corporation and perused the materials available on record.

8. The factum and manner of the accident is not in dispute. A cumulative reading of Ex.P.1 and Ex.P.2, namely F.I.R. and charge sheet reveals that the driver of the Transport Corporation's bus came from opposite direction in a rash and negligent manner, dashed against the car, thereby the law enforcing agency registered a case. By marking the documents Ex.P.1 to Ex.P.5, the claimant well established his case through P.W.3 before the Tribunal, thereby based on the oral and material evidence,



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the Tribunal held that the accident had occurred due to the rash and negligent driving of the Transport Corporation's bus, which is wholly sustainable. Hence, this Court is not inclined to interfere with the award passed by the Tribunal with regard to negligence fixed on the driver of the Transport Corporation's bus.

9. Now, coming to the question of quantum of compensation awarded by the Tribunal. Admittedly, the doctor had assessed the disability of the claimant at 40% for the injuries sustained by the claimant. Considering the fact that the percentage of disability vary from doctor to doctor, this Court is inclined to reduce the same and fixes the percentage of disability at 30%. Therefore, the amount under the head of disability stands modified to a sum of Rs.90,000/- ($\text{Rs.3,000/-} \times 30$) by fixing a sum of Rs.3,000/- per percentage of disability.

10. Further, taking into account the nature of injuries sustained by the claimant, this Court awards a sum of Rs.5,000/- towards attender charges. Considering the fact that, no compensation has been granted under the heads transportation and future medical expenses, this Court awards a sum of Rs.5,000/- and Rs.15,000/- respectively under these heads. Further, taking into account the fact that the claimant has taken treatment in the



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hospital for more than one month, this Court awards a sum of Rs.9,000/- (3,000/- x 3) by fixing a sum of Rs.3,000/- per month as income.

11. Further, the amount of compensation awarded under the heads pain and suffering and extra nourishment is enhanced to Rs.25,000/- and 5,000/- respectively, as this Court is of the considered view that the compensation awarded by the Tribunal under the aforesaid heads are very meagre and deserves enhancement.

12. Insofar as the compensation awarded under the heads grievous injuries and simple injuries, no compensation can be awarded under such heads as those heads are not conventional heads, which attract any compensation. Therefore, the compensation awarded under the said heads are accordingly set aside.

13. In view of the above, the compensation awarded by the Tribunal is modified as under :-



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S.No.	Description	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
1	Loss of earning due to Disability (30% x 3,000)	40,000/-	90,000/- (enhanced)
2	Grievous injuries (Rs.15,000/- x 4)	60,000/-	-
3	Simple injuries (Rs.5,000/- x 2)	10,000/-	-
4	Loss of income during treatment	-	9,000/- (3,000/- x 3)
5	Medical bills	99,447/-	99,447/-
6	Pain & sufferings	10,000/-	25,000/- (enhanced)
7	Extra nourishment	2,000/-	5,000/- (enhanced)
8	Transportation	-	5,000/-
9	Future Medical expenses	-	15,000/-
10	Attender charges	-	5,000/-
		2,21,447/-	2,53,447/-

14. In the result, the appeal in C.M.A.No.2410 of 2012 is dismissed and the appeal in C.M.A.No.3774 of 2013 is allowed. Accordingly, the impugned award of the Tribunal is modified enhancing the compensation amount from **Rs.2,21,447/-** to **Rs.2,53,447/-**. The Transport Corporation is directed to deposit the said amount to the credit of M.C.O.P.No.379 of 2009 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less,



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the amount, if any already deposited, within a period of six (6) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the claimant through RTGS within a period of two (2) weeks thereafter upon production of proof with regard to payment of Court fee on the enhanced compensation. The claimant is directed to pay necessary additional Court fee on the enhanced compensation amount. There shall be no order as to costs in these appeals.

13.10.2023

Index : Yes / No
Speaking order / Nonspeaking order
Neutral Citation Case : Yes / No
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To

- 1.The Motor Accidents Claims Tribunal, Principal Sub Judge, Erode.
- 2.The Section Officer, V.R.Section, High Court, Madras.



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M.DHANDAPANI, J.,

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