



WEB COPY



CMA Nos. 1356 & 1411 / 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Civil Miscellaneous Appeal Nos. 1356 & 1411 of 2023
and
C.M.P. No. 13587 of 2023

C.M.A. No. 1356 of 2023:

The General Manager,
Tamil Nadu State Transport Corporation
Trichy Region, Periya Milaguparai
Trichy – 1.
Having Branch at Thuraimangalam,
Perambalur.
Appellant

...

Versus

Jansirani

... Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 06.09.2018 made in M.C.O.P. No. 515 of 2018 on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate, Perambalur.

For Appellant : Mr. M. Murali Vinodh.

For Respondent : Mr. S.P. Yuvaraj.

C.M.A. No. 1411 of 2023:



CMA Nos. 1356 & 1411 / 2023

Jansirani

... Appellant

Versus

WEB COPY

The General Manager,
Tamil Nadu State Transport Corporation
Trichy Region, Periya Milaguparai
Trichy – 1.
Having Branch at Thuraimangalam,
Perambalur.

... Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 06.09.2018 made in M.C.O.P. No. 515 of 2018 on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate, Perambalur.

For Appellant : Mr. S.P. Yuvaraj.

For Respondent : Mr. M. Murali Vinodh.

COMMON JUDGMENT

C.M.A. No. 1356 of 2023 has been filed by the Insurance Company and C.M.A. No. 1411 of 2023 has been filed by the claimant challenging the award passed by the Tribunal in M.C.O.P. No. 515 of 2018 dated 06.09.2018.

2. Parties are hereinafter referred to as per their rank in the claim petition for the sake of convenience. The claimant has filed the claim



CMA Nos. 1356 & 1411 / 2023

petition seeking compensation stating that on 28.11.2017 at about 4.30 p.m. when she was traveling as a passenger in the bus bearing Registration No. TN 45 N 3836, the driver of the bus belonging to the respondent, which was proceeding from Salem to Trichy near Vathalai Police Station drove the same in a rash and negligent manner and dashed against a road side tree, as a result of which, she sustained grievous injuries all over the body and was admitted in hospital.

3.The respondent filed a counter denying all the averments made in the claim petition stating that the petition is neither maintainable in law nor sustainable on facts; and that in any case, the compensation claimed was excessive and prayed for dismissal of the claim petitions.

4.The claimant examined herself as PW1 and marked Ex.P.1 to Ex.P.13. On the side of the respondent, the driver of the bus was examined as RW1, however no document has been marked. The disability certificate issued by the Medical Board is marked as Ex.C.1.

5.The Tribunal after considering the oral and documentary evidence found that the accident occurred due to the rash and negligent



CMA Nos. 1356 & 1411 / 2023

driving of the driver of the bus and directed the respondent to pay a compensation of Rs.28,69,900/- to the claimant. Aggrieved by the said award, these instant appeals have been filed.

6.The learned counsel for the claimant submitted that the notional income fixed by the Tribunal is meagre and prayed for enhancement of compensation.

7.The learned counsel for the respondent / Transport Corporation, per contra, submitted that the notional income fixed by the Tribunal is excessive and the Tribunal has erred in fixing the entire negligence on the part of the driver of the bus and prayed to set aside the award passed by the Tribunal.

8.Though the respondent / Transport Corporation raised a ground challenging the finding with regard to negligence, the learned counsel for the respondent / Transport Corporation was unable to point out any error in that regard. The claimant examined herself as PW1 and marked Ex.P.1, FIR to prove that the accident took place due to the negligence of the driver of the respondent. The respondent / Transport Corporation in



CMA Nos. 1356 & 1411 / 2023

their counter filed before the Tribunal have admitted that the accident took place due to the negligence of its driver. RW1's evidence only confirms that the accident took place due to his negligence. Hence, the Tribunal had correctly fixed the entire negligence on the driver of the respondent.

9.The only question therefore involved in these instant appeals is whether the compensation awarded under the head loss of income is just and reasonable.

10.Admittedly, the claimant was holding a diploma from Teacher Education Board. She had deposed before the Tribunal that she was taking home tuitions. The accident is of the year 2017. Considering the educational qualification, the avocation and the age of the injured, this Court is of the view that it would be just and reasonable to fix Rs. 13,000/- per month as notional income of the injured. The claimant is entitled to 40% enhancement towards future prospects. Considering the fact that the left leg of the claimant was amputated, the functional disability fixed by the Tribunal at 75% cannot be faulted. Since the claimant was aged about 38 years at the time of the accident, the



CMA Nos. 1356 & 1411 / 2023

multiplier applicable is 15. Therefore, loss of income would be Rs.

13,000/- + Rs. 5,200/- (40% of Rs. 13,000/-) = Rs. 18,200/- x 12 x 15 x

75% = Rs. 24,57,000/-. The award under the other heads are just and the

same are confirmed. Thus, the award of the Tribunal is modified as

follows;

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of income	18,90,000	24,57,000	Enhanced
2.	Transport to hospital	10,000	10,000	Confirmed
3.	Extra Nourishment	25,000	25,000	Confirmed
4.	Attender's charge	50,000	50,000	Confirmed
5.	Pain and sufferings, mental agony	1,00,000	1,00,000	Confirmed
6.	Medical bills	1,93,915	1,93,915	Confirmed
7.	Loss of amenities	1,00,000	1,00,000	Confirmed
8.	Damage to cloth	1,000	1,000	Confirmed
9.	Future Medical expenses	1,00,000	1,00,000	Confirmed
10.	Loss of Marital life	2,00,000	2,00,000	Confirmed
11.	For artificial limb and its maintenance	2,00,000	2,00,000	Confirmed
	Total	28,69,915 rounded off to 28,69,900	34,36,915 rounded off to 34,36,900	Enhanced by Rs. 5,67,000/-



CMA Nos. 1356 & 1411 / 2023

11. With the above modification, C.M.A. No. 1356 of 2023 is dismissed and C.M.A. No. 1411 of 2023 is partly allowed and the compensation awarded by the Tribunal at Rs.28,69,900/- is hereby enhanced to Rs.34,36,900/- together with interest at 7.5% per annum (excluding the default period if any) from the date of petition till the date of deposit. The respondent / Transport corporation is directed to deposit the award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of six (6) weeks from the date of a receipt of copy of this Judgment. On such deposit, the claimant is permitted to withdraw the compensation amount along with proportionate interest and costs, less the amount if any, already withdrawn. The claimant is directed to pay the necessary court fee if any on the enhanced award amount. Consequently, the connected miscellaneous petition is closed. No costs.

28.08.2023

ay

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



WEB COPY



CMA Nos. 1356 & 1411 / 2023

SUNDER MOHAN, J

ay

To

1. The Motor Accident Claims Tribunal / Chief Judicial Magistrate,
Perambalur.

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

C.M.A. Nos. 1356 & 1411 of 2023
and
C.M.P. No. 13587 of 2023

Dated: 28.08.2023