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C.M.A.No.2514 of 2016 &
Cross objection No.72 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2023

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THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.2514 of 2016
and Cross Objection No.72 of 2021
and CMP No.17829 of 2016

The Managing Director
Metropolitan Transport Corporation
Pallavan Salai
Chennai-600 002.

.. Appellant
in CMA No.2514 /2016
& Respondent in Cross
Obj. No.72 of 2021

vs.

A.Venkatesan

.. Respondent in
CMA No.2514/2016 &
Cross Appellant in
Cross Obj.72 of 2021



C.M.A.No.2514 of 2016 &
Cross objection No.72 of 2021

Civil Miscellaneous Appeal and Cross Objection were filed against the award and decree in MCOP No.3982 of 2013, dated 15.04.2015 on the file of the Motor Accident Claims Tribunal / III Judge, Court of Small Causes, Chennai.

For Appellant/Transport Corporation : Mr. S.S.Swaminathan
in CMA

For Cross Objector/Claimant : M/s.M.Malar

COMMON J U D G M E N T

The appellant/Transport Corporation has preferred the present appeal in CMA. No. 2514 of 2016. The Claimant has filed Cross Objection No.72 of 2021. Both the cases are filed against the award and decree, dated 15.04.2015, passed by the Motor Accident Claims Tribunal / III Judge, Court of Small Causes, Chennai in MCOP No.3982 of 2013.

2. As could be seen from the Claim Petition, the accident had occurred on 06.04.2013 at 04.50 hours, inside the Metropolitan Transport



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Corporation Depot, at Pallavan Salai, Chennai. The D-1 Triplicane Police Station registered a case in Crime No.497 of 2013 in connection with the accident. As per the first information report, while the claimant was working inside the Metropolitan Transport Corporation Ltd., Pallavan Salai, Chennai, a MTC bus bearing Registration No.TN 01 N 5716 & Route No.A-18 which was driven by its driver in a rash and negligent manner and lost his control and dashed against the injured/claimant. Due to the accident, he sustained crush injury on his left hand and multiple injuries all over the body. Hence, he filed a claim petition before the Tribunal, seeking compensation of Rs.30,00,000/-.

3. The Tribunal, on appreciation of both oral and documentary evidence came to the conclusion that the accident occurred only due to the rash and negligent driving of the driver of the Transport Corporation bus and hence, directed the appellant/Transport Corporation to pay a sum of Rs.10,87,500/- with interest at the rate of 7.5% per annum from the date of



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claim till the date of realisation as compensation to the claimant

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4. Questioning the negligence and quantum of award, the appellant/Transport Corporation has come forward with CMA.No.2514 of 2016.

5. Being not satisfied with the quantum of the award, the claimant has filed Cross Objection No.72 of 2021.

6. The learned counsel appearing on behalf of the appellant/Transport Corporation mainly contended that the Tribunal has awarded excess compensation under various heads and the monthly income of the respondent fixed at Rs.6,000/- is highly excessive and the amount granted towards pain and suffering is also excessive. This apart, as far as the negligence aspect is concerned, the injured cleaner suddenly got down from the another bus carelessly without noticing the moving bus in the



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maintenance area which was the root cause for the occurrence of the accident. The injured was also equally responsible for the accident and as such he is liable for contributory negligence. The Tribunal has failed to consider and appreciate the evidence of RW1 driver properly. Except FIR no other documents like rough sketch and charge sheet which are vital to substantiate negligence on the part of the driver of the Transport Corporation, were not produced by the injured/claimant. The Tribunal erred in awarding Rs.10,000/- towards medical expenses without any documentary proof. 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.

7. The learned counsel appearing on behalf of the cross objector/claimant disputed the contention by stating that the grievousness of the injuries and the amputation in left hand suffered by the claimant



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incapacitated him from performing his normal and routine duties. The claimant was working as a cleaner and was earning about Rs.270/- per day at the time of accident. While so, the monthly income fixed by the Tribunal at Rs.6,000/- is very meager. The compensation awarded under the heads of transport expenses, attender charges, medical expenses, loss of amenities, pain and sufferings, damages are on the lower side. The Tribunal has failed to award any compensation under the heads of mental agony, future medical expenses, loss of earning capacity and future prospects, hence, she sought for enhancement of compensation.

8. Heard Mr. S.S.Swaminathan, learned counsel for the Transport Corporation and M/s.M.Malar, learned counsel for the claimants/cross objectors.

9. As far as the negligence is concerned, as seen from the records the Tribunal has considered the contentions made in the FIR - Ex.P1 and as well



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as the oral evidence and arrived a conclusion that the accident had occurred due to the rash and negligent driving of the driver of the bus bearing Registration No.TN-01-N-5716 belonging to the appellant/Transport Corporation. Thus, the appellant/Transport Corporation was directed to pay compensation to the cross objector/claimant.

10. As far as the quantum of compensation is concerned, PW2/doctor assessed the permanent disability at 80%. Considering the fact that the claimant had lost his left hand elbow, the Tribunal has fixed the disability at 80% . Since the claimant is a coolie he will be unable to do any sort of work without his hand and his avocation will be totally affected, and in view of the settled law, the Tribunal has rightly fixed the total disability at 100% and adopted multiplier method.

11. It is the contention of the cross objector/claimant that though the claimant was working as cleaner in the Transport Corporation and was



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earning Rs.270/- per day at the time of accident, the Tribunal without considering the same, has fixed a sum of Rs.6000/- as notional income which is very low. But, no proof of income has been filed on his side. In the absence of any material evidence, considering the age and avocation of the claimant, the Tribunal has rightly fixed the monthly income and therefore, it does not call for any interference by this Court.

12. The other heads under which compensation was awarded by the Tribunal appears to be just and fair and they deserve no interference by this Court.

13. In the result,

(i) The Transport Corporation is directed to deposit the award amount i.e, Rs.10,87,500/- along with interest at the rate of 7.5% per annum and costs, after deducting the amount already deposited, if any, to the credit



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of MCOP No.3982 of 2013 within a period of six weeks from the date of receipt of a copy of this Judgment.

(ii) On such deposit being made, the Tribunal is directed to transfer the award amount to the bank accounts of the claimant along with accrued interest through RTGS within a period of two weeks thereafter.

14. Accordingly, the award passed by the Tribunal in MCOP No.3982 of 2013 dated 15.04.2015 on the file of the Motor Accident Claims Tribunal/ III Judge, Court of Small Causes, Chennai stands confirmed and both the Civil Miscellaneous Appeal and Cross Objection stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Speaking Order/Non-Speaking Order
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A.A.NAKKIRAN, J.
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To

- 1.The Motor Accident Claims Tribunal,
III Judge, Court of Small Causes
Chennai.
- 2.The Section Officer,
V.R Section,
High Court, Madras.

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