



CMA.No.2046 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 07.09.2023

CORAM:
THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CMA.No.2046 of 2023

Gnanasamy

.. Appellant

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Villupuram Division,
Tiruvannamalai Zone, Bypass Road,
Vengikkal,
Tiruvannamalai.

... Respondent

Prayer: The Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 26.06.2018 and made in M.A.C.T.O.P.No.105 of 2014 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Tiruvannamalai.

For Petitioner : Ms.A.Subadra

For Respondent : Mr.S.S.Santhosakumar



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JUDGMENT

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The Civil Miscellaneous Appeal is filed by the appellant challenging the quantum of compensation awarded by the Tribunal in M.A.C.T.O.P.No.105 of 2014, dated 26.06.2018, on the file of the Motor Accident Claims Tribunal, Special Sub Court, Tiruvannamalai.

2. The appellant had filed the claim petition stating that on 23.03.2014, while he was riding his TVS XL Super Moped bearing Registration No.TN-18-Q 4451, the driver of the bus belonging to the respondent/Transport Corporation came in the opposite direction and rammed into two wheeler of the appellant. Due to the impact, the appellant sustained injuries in his right hand wrist and left leg and prayed for enhancement of compensation.

3. The respondent/Transport Corporation resisted the claim petition stating that the accident did not take place due to rash and negligent act of the driver and stated that the petition is bad for non-joinder of necessary parties and in any event the compensation claimed is excessive



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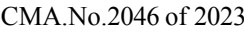
and prayed for dismissal of claim petition.

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4. The appellant examined himself as P.W.1 and marked 11 documents as Exs.P.1 to P11. On the side of the respondent/Transport Corporation one witness was examined as R.W.1 and no document was produced. The certificate issued by the Medical Board was marked as Ex.C-1.

5. The Tribunal considering the pleadings, oral and documentary evidence held that the accident occurred due to the rash and negligent the act of the driver of the respondent/Transport Corporation and awarded a sum of Rs.4,02,000/- as compensation to the appellant. Aggrieved over the said award, the appellant has preferred the instant appeal.

6. The learned counsel for the appellant submitted that the appellant has challenged the portion of the award fixing the monthly notional income of Rs.6,000/- although he had claimed of Rs.7,000/- as his income; that the accident was of the year 2014 and the Tribunal ought to



have fixed his income as Rs.7,000/- per month and hence, prayed for enhancement of the compensation.

7. Per contra, the learned counsel for the respondent/Transport Corporation submitted that the award of compensation is just and reasonable and prayed for dismissal.

8. The only question involved in this instant appeal is whether the compensation awarded by the Tribunal is just and reasonable.

9. The accident was of the year 2014, the appellant had established that he was an agricultural coolie. Considering the year of accident, age of the appellant and his avocation, this Court is of the view that it would be just and reasonable to fix Rs.7,000/- as his monthly notional income. Hence, the compensation under the head "Functional disability" is enhanced $\text{Rs.7,000} \times 12 \times 7 \times 50/100 = \text{Rs.2,94,000/-}$. The award under other heads are just and reasonable and the same are confirmed.



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10. Thus, the compensation awarded by 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 or reduced
1.	Functional Disability	2,52,000	2,94,000	Enhanced
2.	Pain and sufferings	55,000	55,000	Confirmed
3.	Medical and transportation	90,000	90,000	confirmed
4.	Extra nourishment	5,000	5,000	confirmed
	Total	Rs.4,02,000/-	Rs.4,44,000/-	Enhanced by Rs.42,000/-

11. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.4,02,000/- is hereby enhanced to Rs.4,44,000/- together with interest at the rate of 7.5% per annum (excluding the default period, if any) from the date of petition till the date of deposit. The appellant is directed to pay necessary Court fee, if any, on the enhanced compensation. The respondent/Transport Corporation is directed to deposit the modified award amount now determined by this



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Court along with interest and costs, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant is permitted to withdraw the award amount along with interest and costs, after adjusting the amount if any, already withdrawn. It is made clear that the appellant is not entitled for any interest for the delay period, on the enhanced amount of Rs.42,000/-, as per the order of this Court, dated 18.08.2023 in C.M.P.No.14113 of 2022 in C.M.A.SR.No.49663 of 2022. No costs.

07.09.2023

Index: Yes/No
Internet: Yes/No
Speaking order: Yes/ No
gba/rjr

To

- 1.The Special Sub Court,
Motor Accident Claims Tribunal,
Tiruvannamalai.
- 2.The Section Officer
VR Section,
High Court of Madras, Chennai – 600 104.



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SUNDER MOHAN,J.

gba/rjr

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