



C.M.A.No.2538 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2023

CORAM:

THE HON'BLE Mr.JUSTICE A.A.NAKKIRAN

CMA.No.2538 of 2014

The Managing Director
Tamilnadu State Transport Corporation Ltd.
37, Mettupalayam Road,
Coimbatore – 43 (At Chennimalai road)
Erode.

... Appellant

..VS..

R. Rajan

... Respondent

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 30.06.2011 made in MCOP.No.1442 of 2008 on the file of the Motor Accident Claims Tribunal (Additional District & Fast Track Judge, Coimbatore)

For Appellant : Ms. R.T.Sundari

For Respondent : Mr.Ma.P.Thangavel

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the Transport Corporation to set aside the judgment and decree dated 30.06.2011 made



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in MCOP.No.1442 of 2008 on the file of the Motor Accident Claims Tribunal (Additional District & Fast Track Judge, Coimbatore).

2. The case in brief is that on 03.11.2008, at 04.30 p.m., when the claimant was crossing the road, from right to left side, at that time, the appellant bus bearing Regn.No.TN-33-N-1836 driven by its driver on the route proceeding from Coimbatore to Mettur, out of the bus stand in Dr.Nanjappa Road, hit the claimant, due to which, he sustained fracture in the leg and injuries all over the body. Claiming that the driver of the bus had caused the accident and the appellant is liable to pay compensation, claim petition came to be filed claiming a sum of Rs.10,00,000/- as compensation before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.8,50,200/- with interest at the rate of 7.5% per annum from the date of the petition till the date of deposit. Questioning the quantum of compensation awarded by the Tribunal, the appellant has filed the present appeal



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3. The learned counsel for the appellant/Transport Corporation has submitted that Tribunal has erred in holding that the driver of the appellant bus was responsible for the accident. He further submitted that the Tribunal has erred in rejecting the evidence of RW1 who is the best witness to speak about the accident . The Tribunal erred in presuming the age of the victim as 35 years without any proof and also fixing the salary of the victim as Rs.4500/- without any basis. It erred in applying wrong multiplier 16 while calculating loss of income. It also erred in granting compensation under the heads of pain and suffering, transport expenses, extra nourishment, future medical expenses and attendance charges. In any event, the quantum of compensation granted by the Tribunal is excessive and arbitrary. Hence, the Transport Corporation is not liable to pay compensation to the claimant and he prays to allow this appeal.

4. Per contra, the learned counsel for the respondent has submitted that the Tribunal has granted reasonable compensation under various



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heads and no modification needs to be granted. Hence, he prays to dismiss the petition.

5. The Tribunal, based on the oral and documentary evidences, has awarded a sum of Rs.8,50,200/- as total compensation payable by the appellant to the claimant under the following heads:

Heads	Award Amount (Rs.)
Pecuniary loss	6,91,200/-
Pain and Sufferings	65000/-
Transport Expenses	9500/-
Extra Nourishment	10,000/-
Future Medical Expenses	55,000/-
Attender charges	15,000/-
Loss of income during treatment period	4500
Total	Rs.8,50,200/-

6. Heard the learned counsel for the appellant and the learned counsel for the respondent. Perused the materials available on record.



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7. A perusal of the records would reveal that the claimant has sustained left leg fracture, right toe, right leg and injuries all over the body. PW3 / Doctor in Ex.P3/Disability certificate assessed the partial permanent disability at 67.067%. Due to the injuries sustained he was admitted in CMCH Hospital, Coimbatore. However, considering the nature of the injuries sustained by the claimant, this Court is inclined to reduce the compensation under the head of pain and sufferings to Rs.50,000/-. Further a sum of Rs.55,000/- awarded under the head of future medical expenses is totally set aside. Accordingly, in view of the modification, the award granted under the pain and sufferings is reduced to Rs.50,000/- by this Court instead of Rs.65,000/- assessed by the Tribunal.

8. A perusal of the judgment of the Tribunal would go to show that it has taken into consideration the documents and has awarded Rs.6,91,200/- towards pecuniary loss; Rs.10,000/- towards Extra



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Nourishment; Rs.15,000/- towards Attender Charges and Rs.4,500/- under the head of loss of income during treatment period which in the opinion of this Court, is based on evidence on record and hence the said sum awarded under these heads are confirmed as such. Thus, the break-up details of the modified compensation are as follows:

Heads	Award Amount (Rs.)
Pecuniary loss	6,91,200/-
Pain and Sufferings	50,000/-
Transport Expenses	9500/-
Extra Nourishment	10,000/-
Attender charges	15,000/-
Loss of income during treatment period	4500
Total	Rs.7,80,200/-

9. In the result, the Civil Miscellaneous Appeal filed by the appellant is partly allowed by modifying the total compensation from Rs.8,50,200/- to **Rs.7,80,200/-**, which is payable with interest at the rate of 7.5% per annum from the date of petition till the date of deposit.



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10. The appellant/Transport Corporation shall deposit the modified compensation amount, as awarded by this Court, 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 being made, the Tribunal is directed to transfer the award amount along with accrued interest as per the order of this Court to the respondent/claimant through RTGS within a period of two weeks thereafter. No costs.

Gv

09.03.2023

Index : yes/No
Internet: Yes/No

To

1. The Motor Accident Claims Tribunal,
(Additional District & Fast Track Judge,
Coimbatore)

2. The Section Officer,
V.R.Section,

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Madras High Court,
Chennai-104.



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A.A.NAKKIRAN., J.
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