



CMA No. 2284 / 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Civil Miscellaneous Appeal No. 2284 of 2023

R. Jagadeesan

... Appellant

Versus

Tamil Nadu State Transport Corporation,
Rep. By its Managing Director,
1 & 2, Cheikpet Nadu Street,
Vedachalam Buildings,
Villupuram Div.III, Kancheepuram

... Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P. No. 3297 of 2002 dated 20.06.2008 on the file of the Motor Accidents Claims Tribunal, V Judge, Small Causes Court, Chennai.

For Appellant : Mr. P.T. Saleem Fathima.

For Respondent : Ms. S. Shantha kumari.

J U D G M E N T

The claimant has preferred the instant appeal seeking enhancement of compensation in the award passed by the Tribunal in M.C.O.P. No.3297 of 2002 dated 20.06.2008.



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2.The claimant / appellant has filed claim petition stating that on 24.04.2000 at about 15 hrs, while the appellant was riding his cycle in a public road, the driver of the bus belonging to the respondent came in a rash and negligent manner and hit against the vehicle of the deceased as a result of which, the deceased sustained grievous injuries.

3.The respondent filed a counter stating that the accident took place only due to the negligence of the deceased; and that in any case, the compensation claimed was excessive and prayed for dismissal of the appeal.

4.The appellants examined PW1 and PW2 and marked Ex.P.1 to Ex.P.6. The respondent examined RW1 and did not mark any document.

5.The Tribunal after taking into consideration the oral and documentary evidence held that the accident took place due to the negligence of the driver of the bus belonging to the respondent and directed the respondent to pay a compensation of Rs.87,000/- to the appellant by adopting percentage method.



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6.The learned counsel for the appellant submitted that the appellant sustained grievous injuries and also suffered crush injury and amputation of right foot and therefore, the Tribunal ought to have adopted multiplier method and prayed for enhancement.

7.The learned counsel for the respondent, per contra, submitted that the claim petition was filed in the year 2002 and was decided in the year 2008. Thereafter, on the execution petition filed by the appellant, the respondent deposited the entire amount which was also withdrawn by the appellant. However, the instant appeal has been filed with a huge delay of 4709 days and hence, the appeal should not be entertained, after the compensation amount was paid to the appellant and hence, prayed for dismissal of the appeal.

8.The only question that arises for consideration in the instant appeal is whether the compensation awarded by the Tribunal is just and reasonable.



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9. On perusal of the records, it is seen that the accident took place in the year 2000. The claim petition was decided on 20.06.2008. The appellant has received the entire amount in the year 2010. The instant appeal has been filed in the year 2021. Though this Court has allowed the petition to condone the delay, this Court on merits finds that the award of the Tribunal is just and reasonable and no interference is called for. The Tribunal had awarded Rs.65,000/- under the head permanent disability taking into consideration the disability certificate issued by PW2 doctor who treated the appellant which is just and reasonable. The award under the other heads are also just and the same are confirmed.

10. Hence, this Civil Miscellaneous Appeal is dismissed and the compensation awarded by the Tribunal at Rs.87,000/- is confirmed. No costs.

29.09.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



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To

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



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SUNDER MOHAN, J

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