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CMA No. 1396 / 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Civil Miscellaneous Appeal No. 1396 of 2022

Irudhayaraj

... Appellant

Versus

The Managing Director,
Karnataka State Transport Corporation Limited,
Mysore,
Karnataka State.

... Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 seeking to set aside the Judgment and decree dated 05.01.2018 made in M.C.O.P. No. 173 of 2003 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Kancheepuram and allow the above Civil Miscellaneous Appeal.

For Appellant : Mr. C. Prabakaran.

For Respondent : Mr. T. Thiyagarajan.

J U D G M E N T

The appeal has been filed by the petitioner challenging the quantum of compensation awarded by the Tribunal in M.C.O.P. No. 173



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of 2003 dated 05.01.2018.

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2.The appellant had filed a claim petition before the Tribunal stating that on 08.12.2002 while the appellant was travelling in a Maruthi Omni Van bearing Registration No. TN 07 M 723 along with his friend's family from Vellore to Chennai, the respondent's bus bearing Registration No. K.A 09 F 2617 came from Chennai towards Vellore in a rash and negligent manner and dashed against the Omni Van as a result of which the petitioner sustained grievous injuries and some passengers of the Van died on the spot and thus he is entitled for compensation.

3.The respondent remained ex-parte before the tribunal.

4.The appellant examined himself as PW1 and marked Ex.P.1 to Ex.P.18. No witness was examined on the side of the respondent and no document was marked.

5.The Tribunal after considering the oral and documentary evidence awarded a compensation of Rs.1,00,000/- to the appellant to be paid by the respondent. Aggrieved by the said quantum of compensation,



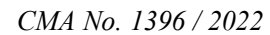
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the appellant had preferred the instant appeal.

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6. The learned counsel for the appellant submitted that though the Tribunal had found that the appellant was entitled to a total compensation of Rs.6,21,800/- had restricted the award to Rs.1,00,000/-, since the claim had been restricted to Rs.1,00,000/-. The said approach of the Tribunal is contrary to the settled position of law. The Tribunal ought to have awarded just compensation and ought not to have restricted the award to Rs.1,00,000/-.

7. The learned counsel for the respondent per contra submitted that though they had not filed an appeal challenging the said award, the reasons given by the Tribunal for holding that the appellant was entitled to Rs.6,21,800/- is erroneous. Admittedly, the appellant had problems in the ear, ten years prior to the accident. Ex.P.18, disability certificate assessing the permanent disability at 60% is based on the appellant's ear problem and has nothing to do with the accident. Further the O.P. sheet and the accident register reveals that the appellant had suffered only simple injuries. Hence, the multiplier method adopted is erroneous and



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9. Further, the Tribunal had ultimately after holding that the appellant was entitled to Rs.6,21,800/- had awarded only Rs.1,00,000/- as compensation. This approach is also erroneous. If the Tribunal in the circumstances felt that the appellant was entitled to Rs.6,21,800/-, it ought not to have restricted the compensation to Rs.1,00,000/-. However, in the facts and circumstances of the case, this Court is of the view that the reasons given by the Tribunal for holding that the appellant is entitled



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to a compensation of Rs.6,21,800/- is erroneous for the reasons stated above. The Tribunal has awarded a compensation of Rs.1,00,000/- which this Court considers to be reasonable and just, there is no reason to interfere in the award passed by the Tribunal.

10. Accordingly, this Civil Miscellaneous Appeal is dismissed and the compensation awarded by the Tribunal at Rs.1,00,000/- is confirmed 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 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 appellant is permitted to withdraw the award amount along with proportionate interest and costs, less the amount if any, already withdrawn. No costs.

18.07.2023

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Index: Yes/No



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Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

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SUNDER MOHAN, J

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To

The Motor Accident Claims Tribunal,
Subordinate Court,
Kancheepuram.

C.M.A. No. 1396 of 2022



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