IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2023

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.No.4442 of 2019
and
Cros.Obj.No.9 of 2021
and
C.M.P.No.25179 of 2019

C.M.A.No.4442 of 2019:

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Villupuram at Kanchipuram 631 502.

...Appellant

Vs

C.Ramadoss

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment dated 12.01.2018 made in M.C.O.P.No.231 of 2015 on the file of the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai.

For Appellant : Mr.S.S.Santhosh Kumar

For Respondents : Ms.A.Subadra

Cros.Obj.No.9 of 2021:

C.Ramadoss

...Appellant

Vs

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Villupuram at Kanchipuram 631 502.

... Respondent

Prayer: Cross Objection filed under Order 41 Rule 22 of the Code of Civil Procedure, 1908, to enhance the judgment and decree of the claims Tribunal in its award dated 12.01.2018 and made in MCOP.No.231 of 2015 on the file of the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai.

For Cross Objector: Ms.A.Subadra
For Respondents : Mr.S.S.Santhosh Kumar

COMMON JUDGMENT

The Civil Miscellaneous Appeal is filed to set aside the decree and judgment dated 12.01.2018 made in M.C.O.P.No.231 of 2015 on the file of the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai.

2. The Cross Objection was filed to enhance the judgment and decree of the claims Tribunal in its award dated 12.01.2018 and made in MCOP.No.231 of 2015 on the file of the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai.

3. The learned counsel for the insurance company would submit that he is merely questioning about the compensation awarded towards the medical expenses. He would further submit that the claimant was hospitalised for 20 days. With regard to the same, the medical bills were produced before the Tribunal to an extent of Rs.5,32,526/- and the Tribunal had awarded the compensation towards medical bills to an extent of Rs.5,22,190/-. He would further submit that since the injured was hospitalised only for 20 days, the medical expenses claimed is on the higher side. Thereafter, he had also questioned with regard to the amount awarded towards the loss of income for a sum of Rs.19,500/-.

4. The learned counsel appearing for the cross objector would submit that

the disability was assessed at 40% by the Doctor, who had examined the injured. However, the Tribunal had taken only 30% of disability into consideration and awarded a sum of Rs.3,000/- per percentage. She would further submit that the accident was occurred on 04.01.2018 and the injured was aged 60 years at the time of accident. Hence, the Tribunal ought to have considered and awarded higher amount towards compensation for disability. Further, she would fairly submit that as far as the medical expenses is concerned, all the documentary evidences were produced before the Tribunal and the same were marked as Ex.P5 and Ex.P6 and nothing has been culled out by the insurance company. Therefore, she would contend that there is no justification in the submission made by the learned counsel for the insurance company that the medical expenses is on the higher side and she prayed this Court to fix a fair compensation.

5. Heard the learned counsel appearing for the insurance company as well as cross objector and also perused the materials available on record.

6. As far as the medical expenses is concerned, this Court had gone

through the documents, which were relevant to medical expenses. That apart, those medical bills were marked through PW1 and in the course of Trial proceedings, the insurance company was given opportunity to examine the said PW1. However, nothing has been culled out by the insurance company about the veracity of the documents with regard to the medical bills, which were produced before this Court. Under these circumstance, this Court is not inclined to accept the contentions of the learned counsel for the insurance company with regard to the medical bills filed before the Tribunal.

7. As far as the loss of income of Rs.19,500/- awarded by the Tribunal is concerned, the claimant is aged 60 years and he was hospitalised for nearly 20 days to treat the injuries, which shows that due to disability, he may unable to work for a period of 4 months and hence, this Court feels that the loss of income awarded by the Tribunal is on lower side. Further, this Court is inclined to award the compensation of a sum of Rs.30,000/- as loss of income.

8. As far as the compensation with regard to the disability is concerned, the Tribunal had awarded a sum of Rs.90,000/- by taking 30% of disability into consideration. However, the disability assessed by Doctor is at 40%. Hence, this

Court feels that when the Tribunal had decided to award the compensation based on the percentage of disability, it ought to have taken the entire percentage. Therefore, this Court is inclined to take 40% of disability into consideration and award a sum of Rs.3,000/- per percentage, which would come around Rs.1,20,000/-.

9. Accordingly, the compensation awarded by the Tribunal is revised as follows:

S.No	***Heads***	***Compensation awarded by Tribunal (Rs.)***	***Compensation awarded by this Court (Rs.)***
1	Disability	90,000	1,20,000
2	Pain and Suffering	50,000	50,000
3	Extra nourishment	10,000	10,000
4	Transport to Hospital	5,000	5,000
5	Damages to Clothes	1,000	1,000
6	Attender Charges	5,200	5,200
7	Medical expenses	5,22,194	5,22,194
8	Future Medical Expenses	10,000	10,000
9	Loss of Income	19,500	30,000
10	Loss of Amenities	5,000	5,000
	Total	7,17,894	7,58,394

10. The modified amount of a sum of Rs.7,58,394/- is rounded off to Rs.7,58,400/-. Accordingly, the award amount stands enhanced from a sum of Rs.7,17,894/- to 7,58,400/-. With regard to all the other aspects, the award

passed by the Tribunal stands confirmed.

11. In the result, the Civil Miscellaneous Appeal is dismissed and the Cross Objection is Partly Allowed and insurance company is directed to deposit a sum of Rs.7,58,400/- along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.231 of 2015 on the file of the Court of Small Causes, Chennai. The Tribunal is directed to transfer the entire amount to the claimant by way of RTGS, within a period of three weeks from the deposit or from the date of receipt of the Bank details obtained for the claimant or application for withdrawal from the claimant, whichever is earlier. Consequently, the connected miscellaneous petition is also closed. No costs.

11.07.2023

Index: Yes/No
Internet:Yes/No
Speaking order/Non-speaking order
nsa

KRISHNAN RAMASAMY,J.

nsa

To:
The Court of Small Causes, Chennai

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