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C.M.A(MD)No.1493 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 13.12.2022

Pronounced on : 30.01.2023

CORAM

THE HONOURABLE MRS.JUSTICE **R.THARANI**

C.M.A(MD)No.1493 of 2012

The Managing Director,
Tamil Nadu State Transport Corporation,
Pudukkottai.

... Appellant / Respondent

Vs.

Logambal

... Respondent / Petitioner

PRAYER :-

This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, to set aside the judgment and decree passed in M.C.O.P.No.279 of 2007, dated 29.04.2011 on the file of the Motor Accident Claims Tribunal cum Chief Judicial Magistrate, Pudukkottai.

For Appellant : Mr.M.Prakash

For Respondent : No Appearance



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JUDGMENT

This Civil Miscellaneous Appeal is filed against the order made in M.C.O.P.No.279 of 2007, dated 29.04.2011 on the file of the Motor Accident Claims Tribunal cum Chief Judicial Magistrate, Pudukkottai. The appellant herein is the respondent and the respondent herein is the claimant in the claim petition.

2.Brief substance of the claim petition is as follows:

On 31.05.2007 at about 9.00 p.m., when the petitioner was walking near the Gandarvakottai main bazar, a bus came behind the petitioner and dashed against him. The petitioner sustained multiple injuries. He was doing agricultural work. Due to the injuries, he could not attend any work and he claimed a sum of Rs.3,00,000/- as compensation.

3.Brief substance of the counter filed by the respondent in the claim petition, is as follows:

It is wrongly stated that the bus came in a rash and negligent manner. In order to avoid a major accident, the bus driver moved the bus on the left side.



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In that process, the bus dashed against the petitioner. The accident was unavoidable. The amount claimed by the petitioner is excessive. The petition is to be dismissed.

4.Four witnesses (4) were examined and five (5) documents were marked on the side of the petitioner. One witness (1) was examined and no documents was marked on the side of the respondent. The Tribunal awarded a sum of Rs.1,45,000/- as compensation.

5.Against the award, the appellant approached this Court by way of this appeal on the following grounds:

The Tribunal is wrong in adopting multiplier method. The Tribunal is wrong in fixing the monthly income of the deceased as Rs.3,000/- and there by awarded Rs.1,35,000/- towards loss of income for 25% disability. The Tribunal is wrong in awarding Rs.5,000/- towards transportation expenses. The amount awarded towards medical expenses and extra nourishment are excessive.



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6. On the side of the appellant, it is stated that the First Information Report was closed as 'mistake of fact' and that the appellant is not liable to pay compensation.

7. On the side of the appellant, the driver of the vehicle was examined as a witness. A copy of FIR was marked as Ex.P1. On the side of the appellant, it is stated that the First Information Report was closed as 'mistake of fact'. But no such document was filed on the side of the appellant. Considering the oral evidence, the evidence of RW1 cannot be given weightage, as he is an interested witness. Hence, it is decided that the liability fixed by the Tribunal is reasonable.

8. On the side of the appellant, it is stated that the Tribunal is wrong in adopting multiplier method for an injury case that too when the disability is only 25%. PW3-Doctor, has certified that the disability is 25%. The disability certificate was marked as Ex.P4, 'X'-Ray was marked as Ex.P5, Discharge Summary was marked as Ex.P2, Case Sheet was marked as Ex.P3. Considering the evidence of PW3 and considering the documents Ex.P2 to



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Ex.P5, the disability is fixed as 25% and the injury is on the left leg ankle portion. Hence, it is decided that adopting multiplier method is not necessary.

The claimant is entitled to Rs.3,000/- per percentage of disability. For 25% disability, the claimant is entitled to Rs.75,000/-.

9.No documents was filed to prove the medical expenses on the side of the claimant. The Tribunal has awarded Rs.5,000/- towards pain and sufferings and Rs.5,000/- towards transport expenses, medical expenses and extra nourishment.

10.Considering the nature of injury Rs.10,000/- is awarded towards medical expenses and the compensation awarded towards pain and sufferings is enhanced to Rs.10,000/-. The claimant is entitled to Rs.5,000/- towards extra nourishment, Rs.5,000/- towards attendant charges and Rs.5,000/- towards transport expenses. For a period of treatment and rehabilitation, the claimant is entitled to Rs.15,000/- towards temporary loss of income. Hence, the compensation amount is calculated as follows:



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For disability	-	Rs. 75,000/-
Medical expenses	-	Rs. 10,000/-
Pain and sufferings	-	Rs. 10,000/-
Extra nourishment	-	Rs. 5,000/-
Attendant charges	-	Rs. 5,000/-
Transport expenses	-	Rs. 5,000/-
For rehabilitation	-	Rs. 15,000/-

Total	-	Rs.1,25,000/-

11.The Civil Miscellaneous Appeal is allowed in part.

(i) The quantum of compensation awarded by the Tribunal is reduced from Rs.1,45,000/- to Rs.1,25,000/- (Rupees One lakh Twenty Five Thousand Only) which shall carry interest at the rate of 7.5% per annum.

(ii) The Appellant/Transport Corporation, is directed to deposit the entire compensation of Rs.1,25,000/- (if not already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and with costs to the credit of M.C.O.P.No.279 of 2007 on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate, Pudukkottai, within a period of eight weeks from the date of receipt of a copy of this order, less any amount already deposited.



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(iii) On such deposit being made by the Appellant/Transport Corporation, the respondent / claimant is permitted to withdraw the entire award amount, along with accrued interest and cost, less any amount already withdrawn by him. The claimant is not entitled for interest for the default period, if there is any.

30.01.2023

Index: Yes / No
Internet : Yes / No
vsd

To

- 1.The Motor Accident Claims Tribunal cum
Chief Judicial Magistrate,
Pudukkottai.
- 2.The Record Keeper, Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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vsd

Pre - Delivery Judgment made in
C.M.A(MD)No.1493 of 2012

30.01.2023