



C.M.A.(MD).No.1747 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 29.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.1747 of 2013

Shanmugasundaram

..... Appellant/Claimant

-VS-

The Managing Director,
Tamil Nadu State Transport,
Corporation Divisional,
Bye Pass Road, Ellisnagar,
Madurai – 10.

... Respondent / Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award, dated 15.07.2011 made in M.C.O.P.No.911 of 2007, on the file of the III Additional Sub Court, Madurai.

For Appellant : Mr.A.George Stephen

For Respondent : No appearance

J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the claimant seeking enhancement of compensation of the award made in M.C.O.P.No.911



C.M.A.(MD).No.1747 of 2013

of 2007 on the file of the Motor Accident Claims Tribunal (III Additional Sub Court), Madurai.

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2. It is contended by the claimant that when he was riding a bicycle on 19.04.2006, a bus belonging to the respondent Transport Corporation hit from the rear side and he sustained grievous injuries. According to the claimant, the bus driver was driving the bus in a rash and negligent manner and in the said accident, the claimant sustained grievous injuries in the lower abdomen, head and other multiple injuries all over the body.

3. According to the claimant, he was admitted as an inpatient in the Government Rajaji Hospital, Madurai, on 19.04.2006 and was discharged on 01.05.2006. He had further contended that he underwent a major surgery on 20.04.2006 in the small intestine area and the intestine area has been reduced in length due to the said surgery. Hence, he prayed for a sum of Rs. 3,00,000/- (Rupees Three Lakhs only) towards compensation.

4. The respondent/Transport Corporation had filed a counter contending that the accident had happened only due to the negligence on the



C.M.A.(MD).No.1747 of 2013

part of the claimant and there is no negligence whatsoever on the part of the driver of the Transport Corporation.

5. The Tribunal, after considering the oral and documentary evidence, arrived at a finding that the accident had happened only due to the rash and negligent driving on the part of the driver of the Transport Corporation. The Tribunal further arrived at a finding that as per Ex.P.7, the partial permanent disability was 43% and calculated a sum of Rs.2,000/- (Rupees Two Thousand only) per percentage. However, no award was granted in favour of the permanent disability under the head of partial permanent disability, since the claimant is a Government servant. Thereafter, the Tribunal proceeded to grant a sum of Rs.1,000/- (Rupees One Thousand only) towards transport to Hospital, a sum of Rs.10,000/- (Rupees Ten Thousand only) towards Extra nourishment, a sum of Rs.10,000/- (Rupees Ten Thousand only) towards pain and sufferings and compensation for partial disability at Rs.94,600/- (Rupees Ninety Four Thousand and Six hundred only). The said award is under challenge in the appeal seeking enhancement.



C.M.A.(MD).No.1747 of 2013

WEB COPY

6. The learned counsel appearing for the appellant/claimant submitted that the claimant was admitted as an inpatient in the Government Rajaji Hospital between 19.04.2006 to 01.05.2006 which was reflected under Ex.P3 and Ex.P.7. Therefore, for pain and sufferings, the Tribunal was not right in awarding only a sum of Rs.10,000/- (Rupees Ten Thousand only). He further contended that the claimant has underwent a major surgery in the intestine and further a sum of Rs.10,000/- (Rupees Ten Thousand only) has been awarded under the head of extra nourishment. Since he was in hospital, no attender charges has been paid.

7. Though the respondent Transport Corporation has been served and the name was also printed in the cause-list, there is no appearance on the side of the respondent.

8. Considering the fact that the petitioner has underwent major surgery in the intestine on 20.04.2006, this Court is inclined to enhance the compensation under the head of extra nourishment and an additional sum of Rs.15,000/- (Rupees Fifteen Thousand only) is awarded. Under the head of pain and sufferings, an additional sum of Rs.15,000/- (Rupees Fifteen



C.M.A.(MD).No.1747 of 2013

WEB COPY

Thousand only) is awarded and under the head of attender charges, an additional sum of Rs.5,000/- (Rupees Five Thousand only) is awarded.

9. According to the learned counsel appearing for the appellant, the claimant is working in a Private School and therefore, the Tribunal was not correct in holding that there is no loss of income.

10. Therefore, an additional sum of Rs.5,000/- (Rupees Five Thousand only) is awarded for one month salary. In view of the above said facts, an additional sum of Rs.40,000/- (Rupees Forty Thousand only) is awarded. Total compensation is enhanced from Rs.1,15,600/- (Rupees One Lakh Fifteen Thousand and Six Hundred only) to Rs.1,55,600/- (Rupees One Lakh Fifty Five Thousand and Six Hundred only). The enhanced award will carry interest at the rate of 7.5% from the date of filing of the claim petition. The Transport Corporation is directed to deposit the enhanced compensation amount within a period of eight weeks from the date of receipt of a copy of this order.



C.M.A.(MD).No.1747 of 2013

WEB COPY

11. This Civil Miscellaneous Appeal is allowed to the extent as stated above. There shall be no order as to costs.

29.03.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Motor Accident Claims Tribunal,
The III Additional Sub Court, Madurai.
2. The Managing Director,
Tamil Nadu State Transport,
Corporation Divisional,
Bye Pass Road,
Ellisnagar, Madurai – 10.
3. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A.(MD).No.1747 of 2013

R.VIJAYAKUMAR,J.

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C.M.A.(MD)No.1747 of 2013

29.03.2023