



C.M.A. (MD)No.50 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD)No.50 of 2023

and

C.M.P.(MD) No.592 of 2023

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
(Kumbakonam Division),
Railway Station New Road,
Kumbakonam,
Tanjore District-612 001.

...Appellant/ Respondent

Vs.

Ameer John

...Respondent/ Petitioner

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the impugned award passed in M.C.O.P.No. 1096 of 2018 dated 13.10.2020 on the file of the MACT (Chief Judicial Magistrate Court), Madurai.

For Appellant : Mr. P.M.Vishnuvarthanan



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JUDGMENT

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This Civil Miscellaneous Appeal has been filed seeking to set aside the award and decree made M.C.O.P.No.1096 of 2018 dated 13.10.2020 by the Motor Accident Claims Tribunal (Chief Judicial Magistrate Court), Madurai.

2.The brief facts, leading to the filing of this Civil Miscellaneous Appeal, are as follows:-

(i) For the sake of convenience, the parties are referred to herein, as per their rank before the Trial Court.

(ii)the petitioner while driving a Motor Cycle on 04.07.2018 at about 09. a.m., a bus bearing Registration No. TN-68-N-0613 driven in a rash and negligent manner from the opposite direction of the petitioner, hit his motor cycle . As a result, the petitioner sustained multiple grievous injuries. He has incurred Rs.3,00,000/- towards his treatment. That apart, the petitioner has suffered 40% disability.

3.Before the Tribunal on the side of the claimants P.W.1 and P.W.2 were examined and Ex.P1 to Ex.P9 and Ex.X1 were marked and on the side of the respondents R.W.1 was examined and no oral and documentary evidence have been adduced and the Court document was also marked as Ex.C1.



4.The stand of the respondent before the Tribunal is that the Driver of the bus has driven the bus in a cautious manner and only the petitioner in a rash and negligent manner overtook a motor cyclist at the barricade point and met with an accident.

5. Considering the factual aspects and the evidence adduced, the Tribunal has fixed the following compensation with interest at the rate of 7.5% per annum:

S. No	Heads	Claimed in petition	Amount
1.	Medical Expense	Rs. 3,00,000/-	Rs.2,16,703/-
2.	Loss of income during the treatment period (For 8 months)	Rs. 30,000/-	Rs. 52,000/- (8*6500=52000)
3.	Transport	Rs. 20,000/-	Rs. 5,000/-
4.	Extra nourishment	Rs. 50,000/-	Rs. 40,000/-
5.	Pain and sufferings	Rs. 3,00,000/-	Rs 1,00,000/-
6.	Permanent disability (40%)	Rs. 5,00,000/-	Rs.2,00,000/- (40*5000= 2,00,000)
7.	Future Medical Expense (Cost of Silicone Foot Prosthesis)	Rs. 2,00,000/-	Rs.1,00,000/-
	Total	Rs.14,00,000/-	Rs.7,13,703/-



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Challenging the same, the present Civil Miscellaneous Appeal has been filed by the Transport Corporation.

6. I have heard the learned counsel appearing on either side and perused the entire materials placed on record.

7. Perusal of the award passed by the Tribunal shows that the Tribunal on a careful appreciation of evidence found that only the bus driver was rash and negligent while driving the bus, which resulted in an accident. On considering the medical bills pertaining to the treatment undergone by the petitioner and also the disability certificate issued by the Medical Board, the Tribunal has granted the compensation amount as stated above. It is also pertinent to note that the 2 to 5 toes of the respondent were amputated.

8. For the reasons stated above, this Court is of the view that the Tribunal has rightly assessed the oral and documentary evidence and arrived at the just conclusion. Such view of the matter, I find no merits in this appeal. Accordingly, this Civil Miscellaneous Appeal is dismissed.



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9.The appellant is directed to deposit the entire compensation amount as awarded by the Tribunal with accrued interest and costs to the credit of M.C.O.P.No.1096 of 2018, on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate Court, Madurai within a period of one month from the date of receipt of copy of this judgment, less the amount, if any already deposited. On such deposit, the claimant is permitted to withdraw the said amount, less the amount, if any already withdrawn, by making necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

06.03.2023

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N.SATHISH KUMAR, J.

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To

- 1.The Motor Accident Claims Tribunal,
Chief Judicial Magistrate Court, Madurai.
- 2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

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