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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **19.10.2023**

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

C.M.A(MD)NO.1048 OF 2023

and

C.M.P(MD)No.14280 of 2023

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Kumbakonam Diision-II,
Periyamilaguparai,
Tiruchirappalli :Appellant/Petitioner

.VS.

Puvaneswaran @ Karthick Puvaneswaran :
:Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor vehicles Act against the judgement and award made in M.C.O.P.No.81 of 2009, dated 20.2.2020, on the file of the Motor Accidents Claims Tribunal (III Additional Subordinate Judge),Tiruchirappalli.

For Appellant :Mr.K.Ramaiah

JUDGMENT

This Civil Miscellaneous Appeal is filed challenging the award made in M.C.O.P.No.81 of 2009, dated 20.2.2020, on the file of the Motor Accidents Claims Tribunal(III Additional Subordinate



Judge), Tiruchirappalli.

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2.The respondent, as claimant, filed M.C.O.P.No.81 of 2009 claiming compensation of Rs.6 lakhs.The Tribunal awarded a sum of Rs.12,72,000/- as compensation. Challenging the quantum of compensation, this appeal is filed.

3.The case of the respondent/claimant is that on 14.2.2008 at about 11.30 a.m, the respondent's father was riding TVS XL Super bearing Registration No. TN 45 D 9794 with the respondent as pillion rider from south to north near Reliance Cellphone Stop at Thiruvanaikoil main road. At that time, the bus bearing Registration No. TN 45 N 1913 came from behind in a rash and negligent manner and dashed against the two wheeler. As a result, the respondent suffered fracture injuries on his hip, left leg and foot. His urinal bladder got ruptured. He suffered injuries in hip and all over the body. He had taken treatment at Balaji Nursing Home, Thiruvanaikoil, Government Hospital, Srirangam, Government Hospital, Trichy and then at KMC Hospital, Trichy. He was aged 18 years at the time of accident and working as Washerman/Laundry worker and earned Rs.6000/-p.m.Due to the accident, he suffered disability, that made him unemployable and thus claimed



compensation of Rs.6 lakhs.

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4.This claim was resisted by the respondent stating that the accident had happened not due to the rash and negligent driving of the transport Corporation bus driver, but due to the rash and negligent driving of the two wheeler driver. A plea was taken that the owner and insurer of the two wheeler should be impleaded as parties. The claim of employment and income of the respondent was denied.

5.During the course of enquiry, P.W.1 was examined and Ex.P1 to Ex.P4 were marked. R.W.1 was examined on the side of the appellant and no exhibits were marked.

6.On considering the oral and documentary evidence, the Tribunal awarded a sum of Rs.12,72,000/- as compensation. Challenging this award, this appeal is filed.

7.It is the submission of the learned counsel for the appellant that there is no disability certificate produced and marked in this case, however, the Tribunal had taken the disability of the respondent at 50% and awarded compensation of Rs.7,56,000/- for



loss of future income and on other grounds. However, though a plea was raised with regard to negligence of the rider of the two wheeler, the learned Tribunal rejected the defense set out by the appellant with regard to the negligence aspect. The aspect of negligence was also not canvassed before this Court. The only aspect challenged is the quantum of compensation awarded.

8. On going through the records, especially, the award passed by the learned Tribunal, the Tribunal fixed the transport Corporation was responsible for the accident taking into consideration of the fact that the bus driver hit the two wheeler from behind. On the point of quantum of compensation, the learned Tribunal had considered the injuries suffered by the respondent/claimant in extenso. It is seen from the order of the Tribunal that the respondent was subjected to medical examination by the Medical Board. The Medical Board issued Certificate of Disability and that was marked as Ex.C1. As per Ex.C1, the Medical Board arrived at the disability of the respondent at 50%. The learned Tribunal based on the evidence produced, found that the disability of the respondent can be safely taken at 50%. Thus proceeded to fix the compensation by adopting multiplier method. By employment as washerman, the respondent/claimant said to



have been earning a sum of Rs.6000/-p.m. The Tribunal taking into consideration all the relevant aspects, especially, that the respondent was working in an unauthorized sector, fixed the monthly income of the respondent at Rs.5000/-p.m. Adopting the monthly income of the respondent at 5000/-p.m., added 40% towards future prospects calculated the loss of future income at Rs. 7,56,000/-(Rs.5000/- +Rs.2000/-(Rs.7000 x 12 x 15 x 50/100). It is seen that the Petitioner sustained pelvis impairment and urethral impairment. Thus the Tribunal awarded a sum of Rs.2 lakhs for loss of marriage prospects and marital enjoyment. A sum of Rs.1 lakh was awarded under the head of pain and suffering. On the basis of medical receipts, a sum of Rs.1,37,908/- was awarded towards medical expenses, Rs.20,000/- was awarded towards extra nourishment. Rs.20,000/- towards attendant charges, Rs.15,000/- towards transport expenses, Rs.20,000/- towards loss of income during the accident period and Rs.3000/- towards loss of clothe and articles has been awarded. The award of all these amounts as compensation under various heads, in the considered view of this Court, considering the nature of the injuries and disability suffered by the respondent, is just and appropriate.

9. One of the ground of the learned counsel for the appellant is



that the Tribunal had passed an award in excess of the compensation claimed. The settled proposition in this regard in ***Meena Devi .vs. Nunu Chand Mahto @Nemchand Mahto and others reported in 2022(2)TN MAC 605(SC)*** is that in appropriate cases, whether materials are available or not, the Tribunal is empowered to grant compensation in excess of the amount claimed. Therefore the Tribunal awarding compensation in excess of the amount claimed in the claim Petition, cannot be faulted.

10. In fine, the award of compensation at Rs.12,72,000/- awarded by the Tribunal, in the considered view of this Court, is just and fair compensation and does not call for any interference. In this view, the award of the Tribunal is confirmed and the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

19.10.2023

Index:Yes/No
Internet:Yes/No
NCC:Yes/No
vsn



To

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1. The Motor Accidents Claims Tribunal,
(IIIrd Additional Subordinate Judge),
Tiruchirappalli.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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G.CHANDRASEKHARAN,J.

vsn

**JUDGMENT MADE IN
C.M.A(MD)NO.1048 OF 2023
and
C.M.P(MD)No.14280 of 2023**

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