



C.M.A.(MD).No.465 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD).No.465 of 2022

and

C.M.P.(MD).No.6658 of 2023

The Managing Director,
Tamil Nadu State Transport Corporation,
New Junction Road,
Kumbakonam Town,
Thanjavur District.

... Appellant

Vs.

Machandiranathan

... Respondent

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the order passed in M.C.O.P.No.1309 of 2019, dated 01.10.2020 on the file of the Motor Accident Claims Tribunal (Special Subordinate Judge), Thanjavur.

For Appellant : Mr.P.M.Vishnuvarthan

For Respondent : Mr.G.Karnan



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J U D G M E N T

Challenging the award passed by the Motor Accident Claims Tribunal (Special Subordinate Judge), Thanjavur in M.C.O.P.No.1309 of 2019, dated 01.10.2020, the present appeal has been filed by the Transport Corporation.

2. The brief facts leading to the filing of this appeal are as follows:

On 13.06.2019, at about 10.40 p.m., the petitioner was riding his motorcycle bearing Registration No.TN 50 K 9037 in Gandhiji Road, Mannargudi from North to South. At that time, the bus bearing Registration No.TN 68 N 0318 came in a rash and negligent manner and dashed against the two wheeler of the petitioner. As a result, the petitioner has sustained injuries on his right leg, waist, left leg, head and all over the body and the F.I.R. also registered against the driver of the offending bus. He was treated in the Government hospital from 14.06.2019 to 01.07.2019 and surgery also conducted. Hence, he claimed a compensation of Rs.9,00,000/- before the Tribunal. It is the contention of the appellant before the Tribunal that the petitioner only without noticing the bus suddenly crossed the road.

3. On the side of the petitioner, P.Ws.1 and 2 were examined and Exs.P1



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to P9 were marked and on the side of the respondent, R.W.1 was examined and no documentary evidence was marked.

4. On the basis of the evidence and materials, the Tribunal has found that the driver of the offending vehicle was negligent in driving the vehicle. However, the Tribunal has fixed 10% contributory negligence on the part of the petitioner as the petitioner has not driven the vehicle carefully and awarded a sum of Rs.3,22,480/- in the following manner:

S.No.	Description	Amount
1.	Loss of income due to the disability	Rs.2,28,480/-
2.	Loss of income during treatment	Rs.8,000/-
3.	Loss of amenities	Rs.50,000/-
4.	Attendant charges	Rs.6,000/-
5.	Pain and sufferings	Rs.25,000/-
6.	Conveyance charges and special diet	Rs.5,000/-
	Total	Rs.3,22,380/-

Challenging the same, the present appeal came to be filed by the Transport Corporation.

5. It is the main contention of the learned counsel for the appellant/Transport Corporation that the contributory negligence has to be



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increased, since the rider did not notice the bus. Further, the Tribunal has awarded the compensation by applying multiplier method, which is not correct.

6. In the light of the above submissions, now the point for consideration in this appeal is whether the Tribunal is right in fixing the compensation by applying the multiplier method?

7. On perusal of the evidence adduced on both sides, the fact remains that the driver of the offending vehicle drove the vehicle in a rash and negligent manner. Since there is some evidence on the part of R.W.1 to show that the rider of the motorcycle suddenly crossed the road, the Tribunal has rightly fixed 10% contributory negligence on the part of the claimant. Therefore, this Court is of the view that in the absence of any concrete evidence to prove the absolute negligence on the part of the rider of the motorcycle, the finding of the Tribunal for fixing 10% contributory negligence does not suffer from any infirmity.

8. As far as the quantum of compensation is concerned, the injured has suffered 40% permanent partial disability and P.W.2, the Medical Officer was examined in this regard and the Tribunal has also found that there is also a functional disability and arrived at 10% and awarded the compensation.



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Though the multiplier method adopted by the Tribunal is not proper, this Court is of the view that even the compensation was awarded on percentage basis, the same would come around Rs.2,28,480/-. Further, the Tribunal has also awarded a sum of Rs.8,000/- towards loss of income during treatment and for loss of amenities, attendant charges, pain and suffering and conveyance charges and special diet, the Tribunal has totally awarded a sum of Rs.3,22,480/- and deducted 10% towards contributory negligence on the part of the rider of the two wheeler. Therefore, the total compensation payable to the claimant is Rs. 2,90,232/-.

9. In such a view of the matter, this Court is of the view that though the multiplier method adopted is not correct, the fact remains that the compensation awarded by the Tribunal is just and reasonable, considering the nature of the treatment, the injuries and surgery conducted on the petitioner, loss of amenities and functional disability of the petitioner. Accordingly, this Court does not find any merit in this appeal.

10. In the result, the Civil Miscellaneous Appeal is dismissed. The appellant/Transport Corporation is directed to deposit the entire award amount, less the amount already deposited if any, within a period of one month from the



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date of receipt of a copy of this order. On such deposit, the claimant is permitted to withdraw the same by filing necessary application before the Tribunal. The award amount shall carry interest at the rate of 7.5% per annum from the date of petition till the date of realisation. No costs. Consequently, the connected Miscellaneous Petition is closed.

21.06.2023

akv

To

- 1.The Motor Accident Claims Tribunal
(Special Subordinate Judge),
Thanjavur.
- 2.The Record Keeper,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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N.SATHISH KUMAR,J.

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