



C.M.A(MD)No.223 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.01.2023

CORAM

**THE HON'BLE DR JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR JUSTICE SUNDER MOHAN**

C.M.A(MD)No.223 of 2014
and
M.P(MD)No.1 of 2014
and
Cross Obj.(MD)No.14 of 2014
in
C.M.A(MD)No.223 of 2014

C.M.A(MD)No.223 of 2014

The Managing Director,
State Express Transport Corporation Limited,
Pallavan Salai,
Chennai-600 002

.. Appellant/Respondent

Vs.

M.Kameswaran

.. Respondent/Petitioner

Appeal filed under Section 173 of Motor Vehicles Act, 1988, praying this Court, against the judgment and decree in M.C.O.P.No.1048 of 2010 dated 27.06.2012 on the file of the Motor Accidents Claims Tribunal/IV Additional District Court, Madurai.



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For Appellant :Mr.P.Prabhakaran
For Respondent :Mr.S.Sankarapandian

Cross Obj.(MD)No.14 of 2014

Kameswaran

..Cross Objector/Respondent

Vs.

The Managing Director,
State Express Transport Corporation Limited,
Pallavan Salai,
Chennai-600 002

.. Respondent/Appellant

Cross Objection filed under Order 41 Rule 22 of C.P.C, praying this Court, to set aside the decree and judgment dated 27.06.2012 made in M.C.O.P.No.1048 of 2010 on the file of the Motor Accidents Claims Tribunal (IV Additional District Court), Madurai, in so far as the quantum fixed by the Tribunal and enhance the same as Rs.5,00,000/- and dismiss the appeal filed by the respondent.

For Cross
objector :Mr.S.Sankarapandian

For Respondent :Mr.P.Prabhakaran



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COMMON JUDGMENT

DR G.JAYACHANDRAN,J.
AND
SUNDER MOHAN,J.

This appeal is preferred by the Transport Corporation as against the award passed by the Tribunal in M.C.O.P.No.1048 of 2010 filed by one Kameswaran, who suffered injuries in the accident occurred on 31.03.2010.

2.On 31.03.2010, at about 24 hours, the two wheeler bearing Registration No.TN-59-AZ-7668, was driven by one P.M.Sureshkumar with Kameswaran as a pillion rider met with an accident near Thirumangalam to Melur Road. The two wheeler dashed against the Transport Corporation bus bearing Registration No.TN-01-N-7007. While the rider of the two wheeler P.M.Sureshkumar, died on the spot and the pillion rider Kameswaran sustained grievous injuries got admitted in Madurai Institute of Orthopedics and Traumatology, Madurai and he was treated as an inpatient for sufficient period. Implantation was done for the fracture sustained by him. Therefore, he preferred a claim petition in M.C.O.P.No.1048 of 2010 claiming a sum of Rs.5,00,000/- as compensation for his permanent disability.



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3.The Tribunal, after considering the medical records and the information furnished by the Doctor, has awarded a sum of Rs.2,25,000/- as compensation with interest.

4.The said award is challenged by the Transport Corporation on the ground that the accident had occurred only due to the negligence of the rider of the two wheeler and also the compensation is on the higher side.

5.On a perusal of the records, this Court finds that the reasoning given by the trial Court fixing the negligence on the part of the bus driver stands unassailed. As far as the quantum of compensation is concerned, the claimant has also preferred a Cross Objection Petition stating that Ex.P.5, consolidated bills given by Madurai Hospital for Rs.99,206/-, is not being taken into account by the Tribunal. This Court, on perusing the records, finds that the compensation awarded by the Tribunal to Kameswaran, is based on the evidence and proportionate to the percentage of the permanent disability caused to him. While considering the compensation by inadvertence the Tribunal has failed to take note of Ex.P.5 and there is no discussion about Ex.P.5, though it has been duly proved by evidence.



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Hence, Ex.P.5 has to be taken note, while awarding compensation.

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6.Accordingly, this Cross Objection Petition is allowed and the Civil Miscellaneous Appeal is dismissed. A sum of Rs.99,000/- being the medical expenses is taken note of and additional compensation of Rs.99,000/- with interest at the rate of 7.5% p.a., awarded. The compensation as enhanced shall be deposited in M.C.O.P.No.1048 of 2010 on the file of the Motor Accidents Claims Tribunal/IV Additional District Court, Madurai, within a period of 8 weeks from the date of receipt of a copy of this order.

7.On such deposit being made, the claimant is permitted to withdraw the amount so deposited with accrued interest and cost, less the award amount already withdrawn if any. Registry is directed to draft the decree in the appeal, after the payment of excess Court Fee on the enhanced award amount. No costs. Consequently, connected miscellaneous petition is closed.

(G.J.,J.) (S.M.,J.)
20.01.2023

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



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DR G.JAYACHANDRAN,J.
and
SUNDER MOHAN,J.
Ns

To

- 1.The Motor Accidents Claims Tribunal/
IV Additional District Court,
Madurai.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai

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