



C.M.A.(MD).No.574 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 24.11.2023

Delivered on: 20.12.2023

CORAM:

**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
AND
THE HONOURABLE MR.JUSTICE P.B.BALAJI**

C.M.A.(MD).No.574 of 2021

Ramasamy

... Appellant / Claimant

Vs.

Tamil Nadu State Transport Corporation,

Rep. by its Managing Director,

By pass Road, Madurai.

... Respondent / Respondent

Prayer:- Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the award passed in M.C.O.P.No.28 of 2018 dated 24.07.2019, on the file of the Motor Accident Claims Tribunal (Sub Court), Devakottai and to enhance the award amount.

For Appellant : Mr.J.Jeyakumaran

For Respondent : Mr.P.M.Vishnuvarathan



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JUDGMENT

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P.B.BALAJI,J.

The claimant, in M.C.O.P.No.28 of 2018 dated 24.07.2019, on the file of the Motor Accident Claims Tribunal - Sub Court, Devakottai, is the appellant before us, aggrieved by the quantum of compensation passed by the Tribunal.

2. The brief facts of the case are that the appellant, as claimant sought for compensation for the injuries suffered by him in a motor accident on 17.12.2016. The claimant prayed for compensation of Rs.55,00,000/- for the injuries.

3. The claim was resisted by the Transport Corporation on the ground that the claimant was responsible for the accident, as he had been negligent in driving the vehicle and the claim of Rs.55,00,000/- was excessive and arbitrary.



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4. Before the Tribunal, the claimant examined himself as P.W.1 and one Kaleeswaran was examined as P.W.2 and 13 documents were marked as Ex.P1 to Ex.P13, on the side of the claimant / appellant. On the side of the respondent / Corporation, one Murugan was examined as R.W.1, however, no documents were exhibited.

5. The Tribunal found that the respondent / Transport Corporation was liable to compensate the claimant for the injuries suffered by him in the accident as the driver of the Transport Corporation vehicle was at fault. The Transport Corporation has not preferred any Appeal against the award and therefore, it is only the question of quantum payable by the respondent / Corporation that remains to be considered by us.

6. It is the specific case of the appellant that the Tribunal, while awarding reimbursement of medical expenses has not granted reimbursement of an amount of Rs.68,811, despite bills having been submitted for the same. The learned counsel for the appellant would also state that the claimant has filed a disability certificate issued by the



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Medical Authority, attached to the Government Hospital, Aranthangi as well as the Disability Passbook issued by the Government of Tamil Nadu, where it is clearly mentioned that the disability percentage is 40%. However, for the reasons best known to the Tribunal, the Tribunal has taken the disability only at 30%. The learned counsel for the appellant would further contend that despite having produced exhibits, discharge summary – Ex.P6 and scan report in Ex.P10, the Tribunal failed to award compensation under the head of future medical expenses.

7.Per contra, the learned counsel for the respondent / Corporation would submit that the award passed by the Tribunal is fair and reasonable and the same does not warrant interference.

8. We have heard Mr.J.Jeyakumaran, learned counsel for the appellant and Mr.P.M.Vishnuvarathan, learned counsel for the respondent. We have also gone through the oral and documentary evidence adduced before the trial Court.

9. Insofar as the contention of the appellant with regard to



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reimbursement of medical expenses, we have perused Ex.P8 - Medical Bills and it is clear that the Tribunal has omitted to award a sum of Rs.68,811/- towards medical expenses reimbursement. Though the Tribunal has awarded a portion of the claim made by the appellant, it has omitted the said sum of Rs.68,811/-. This amount is therefore to be included in the award.

10. Coming to the disability, despite Ex.P11 and Ex.P13 clearly stating that the percentage of disability is 40%. The Tribunal without assigning any proper reason, has taken it as 30%. Therefore, this also requires interference. We deem it fit to fix the percentage of disability at 40% and the claimant is entitled to Rs.1,20,000/- (Rs.3,000/- X 40) towards partial permanent disability.

11. Coming to the next head, namely, attender charges, the learned counsel for the appellant would state that the appellant was an inpatient for about 6 months and the same is established by the discharge summary. Considering the nature of injury, the appellant certainly would have taken the assistance and no amounts have been awarded towards



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attender charges. The appellant was an inpatient and as seen from Ex.P6, the claimant was admitted on 17.12.2016 and underwent surgery on 18.12.2016 and discharged on 30.12.2016, again, he was admitted on 27.04.2017 and discharged on 04.05.2017. Considering the above, we deem it fit to award a sum of Rs.50,000/- towards attender charges.

12. As far as the contention of the learned counsel for the appellant regarding future medical expenses, we do not find any satisfactory evidence having been produced by the appellant. The only documents that were filed in support of the claim towards future medical expenses are quotations for knee cap replacement surgery. These documents do not have any evidentiary value, since the appellant may not even undergo the surgery and he has only obtained estimates of the cost of surgery. Based on these documents, we are unable to accept the learned counsel's argument that the Tribunal erred in not awarding compensation under the head of future medical expenses. In all other respects, the award of the Tribunal is hereby confirmed. In view of the above discussion, the compensation is reworked in the manner hereunder:



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Head	Awarded by the Tribunal	Awarded by this Court	Enhanced/ reduced/ confirmed
1.Partial permanent disability	Rs. 90,000/-	Rs. 1,20,000/-	Enhanced
2.Medical Bills	Rs. 1,96,098/-	Rs. 2,64,909/- (include Rs.68,811)	Enhanced
3.Pain and sufferings	Rs. 40,000/-	Rs. 40,000/-	confirmed
4.Transport expenses	Rs. 48,900/-	Rs. 48,900/-	confirmed
5.Extra nourishment	Rs. 25,000/-	Rs. 25,000/-	confirmed
6.Attender charges		Rs. 50,000/-	awarded
Total	Rs. 3,99,998 /-	Rs.5,48,809/-	Enhanced

13. In fine, the Civil Miscellaneous Appeal stands partly allowed and the award, passed in M.C.O.P.No.28 of 2018 dated 24.07.2019, on the file of the Motor Accident Claims Tribunal (Sub Court), Devakottai, is hereby modified and the compensation is enhanced from Rs.3,99,998/- to Rs. 5,48,809/-.



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14. The respondent / Transport Corporation is directed to deposit the modified award amount of Rs. 5,48,809/-along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, and costs awarded by the Tribunal, less the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment.

15. On such deposit being made, the appellant / claimant is permitted to withdraw the entire award amount, along with interest and costs, less the amount if any already withdrawn by him, after filing appropriate application before the Tribunal. There shall be no order as to costs in the present appeal.

(T.K.R.J.) & (P.B.B.J)
20.12.2023

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To

1.The Motor Accident Claims Tribunal -
Sub Court,
Devakottai.

2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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RMT.TEEKAA RAMAN, J.,
and
P.B.BALAJI,J

LS

judgment in
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20.12.2023