



C.M.A.(MD).No.833 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 20.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.833 of 2017

Thairiyam

... Appellant/Claimant

-vs-

The Tamil Nadu State Transport
Corporation (Commissioner Division – II)
Erode.

... Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the judgment and decree dated 24.07.2002 in M.C.O.P.No.757 of 2001 on the file of the Motor Accidents Claims Tribunal (ADJ–cum-CJM), Karur.

For Appellant : Mr.P.Ganapathi Subramanian
For Respondent : Mr.K.Ramaiah
Standing Counsel

J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the claimant seeking enhancement of compensation of the award passed by the the Motor Accidents Claims Tribunal (ADJ–cum-CJM), Karur in M.C.O.P.No.757 of 2001.



C.M.A.(MD).No.833 of 2017

WEB COPY

2. The claimant was an agricultural Coolie, aged about 45 years, when she met with an accident on 16.11.2001. In the said accident, she had sustained multiple and grievous injuries all over the body including a fracture in her hip. She had prayed for compensation of Rs.4,00,000/- (Rupees Four Lakhs only)

3. The Transport Corporation had filed a counter questioning the negligence, liability and quantum.

4. The Tribunal, after considering the oral and documentary evidence, arrived at a finding that the accident has taken place only due to the rash and negligent driving on the part of the driver of the Transport Corporation. The Tribunal has proceeded to award a sum of Rs.35,000/- (Rupees Thirty Five Thousand only) towards partial permanent disability, a sum of Rs.10,000/- (Rupees Ten Thousand only) towards pain and sufferings, a sum of Rs.2,000/- (Rupees Two Thousand only) towards loss of earning, a sum of Rs.20,000/- (Rupees Twenty Thousand only) towards future Medical expenses, another sum of Rs.12,000/- (Rupees Twelve Thousand only) towards medical bills and a sum of Rs.4,000/- (Rupees Four Thousand only) towards attendar



C.M.A.(MD).No.833 of 2017

charges and another sum of Rs.4,000/- (Rupees Four Thousand only) towards extra nourishment. Totally, a sum of Rs.87,000/- (Rupees Eight Seven Thousand only) has been awarded. This award is under challenge in the present appeal.

5. According to the learned counsel appearing for the appellant, the Government Doctor, who has treated the claimant has issued a disability certificate under Ex.A-9. As per the evidence of Doctor who has been examined as P.W.2 and as per the said certificate, the claimant has sustained 70% permanent disability. However, only a sum of Rs.35,000/- (Rupees Thirty Five Thousand only) has been awarded under the head of partial permanent disability. Hence, he prayed for enhancing the amount under the said head.

6. Per contra, the learned counsel appearing for the respondent had contended that the Tribunal after considering the disability certificate, wound certificate and the evidence of the Doctor, has proceeded to award a sum of Rs.35,000/- towards permanent disability and the same may not be enhanced.



C.M.A.(MD).No.833 of 2017

WEB COPY

7. I have carefully considered the submissions made by the learned counsel on either side and perused the material on records.

8. The disability certificate which is marked as Ex.A.9 issued by the Doctor, who was examined as P.W.2 clearly indicates that the claimant had sustained 70% permanent disability. The said disability arises out of the fact that there is a fracture in the left tibia and in the hip bone. Therefore, it is clear that the claimant has sustained grievous injuries in the said accident. However, the Tribunal has just awarded a sum of Rs.35,000/- (Rupees Thirty Five Thousand only) towards permanent disability without assigning any reason whatsoever. Therefore, this Court is inclined to enhance the said amount calculating a sum of Rs.2,000/- (Rupees Two Thousand only) per percentage. Hence, the award amount under the head of partial permanent disablement from Rs.35,000/-(70% x 2000)= to Rs.1,40,000/- (Rupees One Lakh Forty Thousand only) is awarded. The award of the Tribunal under other heads is hereby confirmed.

9. In view of the above said deliberations, the award of the Tribunal is modified as follows:



WEB COPY



C.M.A.(MD).No.833 of 2017

Partial Permanent Disability	: Rs.1,40,000/-
Pain and Sufferings	: Rs. 10,000/-
Future Medical Expenses	: Rs. 20,000/-
Medical Bills	: Rs. 12,000/-
Loss of earning	: Rs. 2,000/-
Attendar Charges	: Rs. 4,000/-
Extra Nourishment	: <u>Rs. 4,000/-</u>
Total	: Rs.1,92,000

10. Therefore, the award of the Tribunal is modified and enhanced from Rs.87,000/- to Rs.1,92,000/- (Rupees One Lakh and Ninety Two Thousand only) and the said enhanced amount will carry interest at the rate of 7.5% per annum from the date of the claim petition. The respondent shall deposit the award amount within a period of eight weeks from the date of receipt of a copy of this order.

11. With the above said observations, this Civil Miscellaneous Appeal is partly allowed to the extent as stated above. There shall be no order as to costs.

20.06.2023

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



C.M.A.(MD).No.833 of 2017

WEB COPY

To

1. The Motor Accidents Claims Tribunal
(ADJ–cum-CJM), Karur.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A.(MD).No.833 of 2017

R.VIJAYAKUMAR,J.

ebsi

C.M.A.(MD)No.833 of 2017

20.06.2023