



C.M.A(MD)No.869 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.04.2023**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.869 of 2018

Tamil Nadu State Transport
Corporation Limited,
Through its Managing Director,
Bye-pass Road,
Madurai.

... Appellant/Respondent

Vs.

Sumathi

... Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to set aside the judgment and decree passed by the Motor Accident Claims Tribunal, Additional Sub Court, Tirunelveli in M.C.O.P.No.264 of 2011, dated 24.02.2014.

For Appellant : Mr.D.Sivaraman

For Respondent : No Appearance



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JUDGEMENT

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The present appeal has been filed by the transport corporation challenging the award passed by the Motor Accident Claims Tribunal, Tirunelveli in M.C.O.P.No.264 of 2011 primarily on the ground of quantum.

2. The injured claimant had contended that she was undertaking tailoring work and while she was travelling in the bus belonging to the respondent corporation, the bus got capsized and she sustained grievous injuries in the said accident. The claimant had contented that she had a fracture in the right hand above the knee, fracture in the right hand below the knee, fracture in the right hand knee, injuries in the right side of the chin, injuries in the right right hand big toe & the left leg knee and regloving injury over right hand skin and muscles. The claimant had claimed a sum of Rs.10,00,000/- towards compensation.

3. The respondent have filed a counter contending that there was no rash and negligent driving on the part of the respondent driver. Out of many passengers boarded in the bus, only the petitioner had sustained certain injuries due to her own negligence. She was sitting inside the bus



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carelessly and in an inattentive position and was not cautious to avoid of being thrown away and fell down on the front seat of the bus. The respondent has also disputed the occupation and income of the petitioner.

4. The tribunal after considering the oral and documentary evidence, arrived at a finding that the injured claimant was a passenger in the bus belonging to the respondent transport corporation. The bus had got capsized and the claimant had sustained grievous injuries. Therefore, the accident has happened only due to the rash and negligent driving on the side of the driver of the respondent corporation.

5. The tribunal further found that the left thumb was lost in the said accident and right limb has lost all its functions and sensation and it has become useless. The tribunal further found that the injured claimant was carrying on tailoring business and hereafter, she would not able to continue the said profession. Based upon the said findings, the tribunal has passed an award as applied the multiplier method and arrived at a compensation of Rs.8,17,118/-. This award is under challenge in the present appeal.

6. According to the learned counsel appearing for the appellant,



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the tribunal ought not to have applied the multiplier method in the case of an injury and it should have awarded only for the permanent disability said to have been sustained by the claimant. The learned counsel appearing for the appellant had further contended that more than Rs.25,000/- has been awarded for transport expenses and Rs.35,000/- has been awarded for pain and suffering, which are highly excessive and hence, he prayed for allowing the appeal.

7. The service to the respondent could not be completed for want of proper address.

8. I have carefully considered the submissions made on the side of the appellant and perused the records.

9. The injured claimant was a passenger in the bus belonging to the transport corporation and she had sustained injuries, because of the fact that the bus had got capsized. The manner of accident will clearly establish that the negligence could be attributed only to the driver of the transport corporation. Therefore, the said finding of the tribunal does not require any interference.



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10. The claimant has produced Exhibits P.16 and P.17 photographs to establish that she was undertaking a tailoring business and she was earning a sum of Rs.5,000/- per month. The tribunal has taken into consideration her monthly income as Rs.3,000/-. The nature of injuries sustained by her will clearly indicate that she has lost her thumb in her left hand and her right hand has become completely functionless due to the grievous injuries sustained by her. This could be seen from the disability certificate issued by the Orthopedic doctor. Exhibits P.2 and P.3 discharge summaries issued by the hospital would also indicate that she has sustained injuries to such an extent that she cannot continue her tailoring business. Therefore, this Court does not find any reason to interfere in the award passed by the tribunal by invoking the multiplier method considering the fact that the claimant has sustained functional disability. The number of grievous injuries sustained by her and the loss of left thumb and the loss of functions in the right hand would deserve award of Rs.35,000/- towards love and suffering. Therefore, this Court does not find that the award of the tribunal is either exorbitant or unreasonable under any one of the heads.



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11. Considering the above said facts, there are no merits in the appeal. Hence, this Civil Miscellaneous Appeal stands dismissed. No costs.

05.04.2023

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

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To

1. The Motor Accident Claims Tribunal,
Additional Sub Court,
Tirunelveli.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

R.VIJAYAKUMAR ,J.



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Order made in
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