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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 07.09.2023

Pronounced On : 24.11.2023

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.M.A(MD)No.127 of 2020

1.The Tashildar,
Vilathikulam Taluk,
Thoothukudi District.

2.The District Collector,
Collector Office, Korampallam,
Tuticorin District.

: Appellants /Respondents

Vs.

1.P.Ganesan

: Respondent/3rd Respondent

2.M.Ravikumar

: Respondent/Claimant

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, to set aside the award in M.C.O.P.No.98 of 2015 on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate, Tuticorin, dated 29.01.2019.

For Appellant : Mr.J.John Raja Durai
Government Advocate (Civil Side)



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For Respondents : Mr.M.Murugesan, for R1.

: Mr.S.Siva Thilakar, for R2.

J U D G M E N T

The Civil Miscellaneous Appeal is directed against the order passed in M.C.O.P.No.98 of 2015, dated 29.01.2019 on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate, Tuticorin.

2.The Appellants/respondents, who were made liable to pay compensation of Rs.5,34,000/- to the second respondent/claimant for the disability suffered by him, consequent to an accident occurred on 08.06.2014, challenging the quantum of compensation awarded at by the Tribunal.

3. The case of the claimants is that the claimant was working as a Village Assistant in M.Kodankipatti Village at Vilathikulam Taluk; that on 08.06.2014 at about 03.15 hours, the claimant was travelling in the second respondent's Bolero Jeep bearing Reg.No.TN-69-G-0572 from Sankaralingapuram to Vilathikulam along with Thasildar for the purpose of sand theft ride and when they were proceeding on the Vilathikulam to



Aruppukottai main road from north to south near Jeyavilas Petrol Bulk, the third respondent drove the vehicle in a rash and negligent manner and dashed against the E.B post, which was standing on the western side of the main road and as a result of which, the claimant has suffered fracture in the parietal bone and the part of the skull bones, fractures in the 3rd, 4th 7th, 8th and 10th right side ribs and fractures in D5, D6, D7, D8, D9 and D11 vertebra, contusion in both lungs and also multiple internal and external injuries all over the body; that he was immediately taken to the Government Hospital at Vilathikulam and after first aid treatment, he was taken to Government Medical College Hospital at Thoothukudi and that after treatment for few hours, he was shifted to A.V.M. Hospital at Thoothukudi and was given inpatient treatment from 08.06.2014 to 25.06.2014.

4. It is their further case that the claimant was aged 35 years at the time of accident; that he was working as a Village Assistant in M.Kodankipatti Village at Vilathikulam Taluk and that he was receiving monthly salary of Rs.10,104/-. It is their further case that he has been suffering from head ache, giddines and is unable to do usual work and that the injuries caused permanent disability.



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5. The defence of the appellants is that the claimant, who is a Government servant has availed medical leave with salary for one month and after treatment, he has joined duty; that the claimant has been receiving the same salary what he has received before the accident and as such, there is no loss of income; that the claimant being a Government servant will work till his retirement; that the claimant has not sustained any permanent disability and as such, there is no question of losing of any earnings; that the injuries suffered by him have already been cured completely and therefore, the claimant is not entitled to get the amount as claimed by him and that the compensation claimed is highly excessive and exorbitant.

6. During trial, the claimant has examined himself as P.W.1 and the Medical Officer Thiru.Balakannan as P.W.2 and exhibited 15 documents as Ex.P.1 to Ex.P.15. The respondents have examined the third respondent driver of the vehicle as R.W.1 and exhibited the copy of judgment passed in S.T.C.No.500 of 2014 as Ex.R.1.



7. The learned trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments of both sides, has passed the impugned order, dated 29.01.2019, fixing the compensation at Rs.5,34,000/-.

8. It is pertinent to note that the appellants have not challenged the finding of the Tribunal that the accident was occurred only due to the rash and negligent driving of the third respondent and the consequent liability mulcted on them and the challenge is only with respect to the quantum of compensation.

9. The learned counsel for the appellants would submit that the claimant is a Government employee and he has availed medical leave with salary for one month and after treatment, he joined duty; that the claimant has been receiving the same salary; that the injuries suffered by him are not a bar for his promotion, if he is otherwise qualified; that the claimant being the Government employee is bound to be truthful and genuine in all aspects towards Government and he shall not make such a false claim; that the claimant has not produced any evidence to show the alleged medical treatment and expenses; that the claimant had sustained



only few injuries and the same have already been cured; that the compensation awarded is excessive and without basis and that therefore, the same is liable to be interfered with.

10. It is evident from Ex.P.11/Discharge summary that the claimant was admitted in A.V.M.Hospital, Thoothukudi on 08.06.2014 and surgery under LA, right ICD was done on 09.06.2014 and under GA, excision of depressed fracture left parietal bone and subtotal evacuation of ICH & duroplasty were done on 12.06.2014 and that ICD removal was done on 16.06.2014.

11. It is evident from disability certificate that the Medical Board attached to the Government Thoothukudi Medical College Hospital on examining him, fixed the disability at 35%. The claimant has summoned and examined Dr.Balakannan, Member of Medical Board, who examined the claimant and issued the disability certificate as P.W.2 and he has reiterated the injuries suffered by the claimant and fixing the disability at 35%.



12. It is not in dispute that the claimant was aged 35 years at the time of accident and he is working as Village Assistant and that he is getting monthly salary of Rs.10,620/-. Considering the nature of injuries suffered and also taking note of the fact that the petitioner is a Government servant, the Tribunal has rightly applied the percentage method, but the Tribunal has granted Rs.3,000/- per percentage of disability. Considering the date of accident, this Court is inclined to grant Rs.4,000/- per percentage of disability and as such, the claimant is entitled to get Rs.1,40,000/-toward partial permanent disability.

13. The Tribunal, taking note of the fact that the claimant has availed earned leave for one month, has granted Rs.10,000/- for loss of income. The Tribunal has awarded Rs.15,000/- for transportation, extra nourishment and attendant charges and Rs.1,00,000/- for pain and sufferings. The Tribunal, taking note of the medical bills under Ex.P.8 to Ex.P.10, has rightly granted Rs.1,54,000/- towards medical expenses.

14. As rightly contended by the learned counsel for the appellants, the Tribunal without any basis and without assigning any reason, by simply observing that the claimant has to work for more years, has



awarded Rs.1,50,000/- towards future damages. The claimant has neither pleaded nor adduced any evidence in this regard.

15. As rightly contended by the learned counsel for the appellants, the Tribunal has not shown as to how and what basis, the above amount was awarded. But at the same time, the amount awarded under the heads of transportation, extra nourishment and attendant charges is very low. Considering the nature of injuries suffered, period of in-patient treatment and the attending circumstances, this Court is inclined to grant Rs.20,000/- for transportation; Rs.30,000/- towards extra nourishment and Rs.15,000/- for attendant charges.

16. Considering the above, this Court decides that the claimant is entitled to get compensation under the following heads:

Head of compensation	Amount awarded by the tribunal	Amount confirmed/modified by this Court
Partial permanent disability	Rs. 1,05,000/-	Rs. 1,40,000/-
Loss of income	Rs. 10,000/-	Rs. 10,000/-
Transportation charges; extra nourishment and attendant charges	Rs. 15,000/-	Rs. 20,000/- Rs. 30,000/- Rs. 15,000/-
Pain and sufferings	Rs. 1,00,000/-	Rs. 1,00,000/-
Future damages	Rs. 1,50,000/-	-
Medical expenses	Rs. 1,54,000/-	Rs. 1,54,000/-
Total	Rs. 5,34,000/-	Rs. 4,69,000/-



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17. In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation amount awarded at **Rs.5,34,000/-** is reduced to **Rs.4,69,000/-** with interest at 7.5% per annum and costs. The second respondent/District Collector is directed to deposit the modified award amount, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment and on such deposit, the claimant is permitted to withdraw the award amount with accrued interest and costs, less amount already withdrawn, if any, on due application before the Tribunal. Parties are directed to bear their own costs. Consequently, connected Miscellaneous Petition is closed.

24.11.20213

NCC : Yes :No
Index : Yes : No
Internet : Yes : No
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To

1.The Motor Accident Claims Tribunal
(Additional District Judge/Fast Tract Court No.I)
Thoothukudi.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.



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K.MURALI SHANKAR,J.

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Pre-delivery order made in
C.M.A(MD)No.127 of 2020

24.11.2023