



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.Nos.2072 and 2743 of 2022

and

C.M.P Nos.16050 & 22099 of 2022

The Managing Director
Tamil Nadu State Transport Corporation Ltd
Ramakrishnan Road, Salem.

.. Appellant in CMA No.2072
of 2022/3rd respondent in
CMA No.2743 of 2022

Vs

1.Sasikumar

.. 1st Respondent in
both the appeals

2. R.Radhakrishnan

.. 2nd Respondent in
both the appeals

3.Cholamandalam General MS
Insurance Company Ltd.,
Head Office, Dare House
2nd Floor, N.S.C Bose Road
Chennai-600 001.

.. 3rd Respondent in CMA
No.2072 of 2022 and
appellant in CMA No.2743
of 2022



Prayer in CMA.No.2072 of 2022 : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Award and decree passed by the Motor Accidents Claims Tribunal/ Special Subordinate Court, Dharmapuri in MCOP No.109 of 2016 dated 04.12.2021.

Prayer in C.M.A No.2743 of 2022: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988, against the Award and decree passed by the Motor Accidents Claims Tribunal/Special Subordinate Court, Dharmapuri in MCOP No.109 of 2016 dated 04.12.2021.

For Appellant in CMA No.2072
of 2022/3rd respondent in
CMA No.2743 of 2022 : Mr.D.Nitin

For 1st Respondent in : Mr.T.Ananthasekar
both the appeals

3rd Respondent in CMA
No.2072 of 2022 and
appellant in CMA No.2743
of 2022 : Mr.M.B.Raghavan

COMMON JUDGMENT

C.M.A No.2743 of 2022 has been filed by the Insurance Company questioning its liability to pay compensation as per the impugned award. C.M.A No.2072 of 2022 has been filed by the Transport



Corporation questioning the quantum of compensation awarded by the Tribunal under the very same impugned award.

2. Since both the appeals arise out of the very same accident and award, both the appeals are disposed of by a common judgement.

3. At the out set, by consent of all the counsels appearing for the respective parties, the Award passed by the Motor Accident Claims Tribunal/Special Subordinate Court No.I, Villupuram dated 05.04.2019 in M.C.O.P No.249 of 2018 is received as an additional document and marked as an exhibit by this Court. The said award pertains to another claim involving the very same accident, which is also the subject mater of these appeals. In the said award, the Tribunal had given a categorical finding that the driver of the bus owned by the appellant/Transport Corporation, who is the appellant in C.M.A No.2072 of 2022 alone is responsible for the cause of the accident.

4. It is also represented by all the counsels, on instructions, that, pursuant to the award dated 05.04.2019 passed in M.C.O.P No.249 of



2018, the Transport Corporation, who is the appellant in C.M.A No.2072 of 2022, has paid the award amount to the claimant in M.C.O.P No.249 of 2018. Therefore, the finding with regard to the negligence aspect involving the accident has attained finality and it is clear that only the driver of the bus owned by the Transport Corporation, who is the appellant in C.M.A No.2072 of 2022, is alone responsible for the cause of the accident.

5.However, under the impugned award, involving the very same accident as that of M.C.O.P No.249 of 2018 which has been preferred by another claimant, the appellant/Insurance Company in C.M.A No.2743 of 2022 as well as the Transport Corporation, who is the appellant in C.M.A No.2072 of 2022, have been directed to pay compensation in the ratio of 50:50 by holding that both the driver of the vehicle insured with the appellant/Insurance Company in C.M.A No.2743 of 2022 as well as the driver of the bus owned by the appellant/Transport Corporation in C.M.A No.2072 of 2022 were equally responsible for the cause of the accident. The said finding is contrary to the findings rendered by another Tribunal in M.C.O.P No.249 of 2018, wherein the said Tribunal has held that the driver of the bus owned by the Transport Corporation in C.M.A No.2072



of 2022 was alone responsible for the cause of the accident.

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6. Further, the appellant/Transport Corporation in C.M.A No.2072 of 2022 has also paid compensation as determined by the Tribunal in M.C.O.P No.249 of 2018. Therefore, when the findings with regard to negligence as rendered in M.C.O.P No.249 of 2018 has attained finality and it is clear that only the driver of the bus owned by the appellant/Transport Corporation, who is the appellant in C.M.A No.2072 of 2022, is alone responsible for the cause of the accident, the Insurance Company, who is the appellant in C.M.A No.2743 of 2022, has to be exonerated from any liability.

7. As the Tribunal has erroneously in the impugned award has held that both the Insurance Company, who is the appellant in C.M.A No.2743 of 2022, and the Transport Corporation, who is the appellant in M.C.O.P No.2072 of 2022, are equally responsible for the cause of the accident, necessarily, the impugned award passed against the appellant in C.M.A No.2743 of 2022 has to be set aside insofar as the appellant/Insurance Company is concerned and the appeal filed by the



Transport Corporation in C.M.A No.2072 of 22 has to be partly allowed.

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8. Insofar as the quantum of compensation awarded by the Tribunal is concerned, the Tribunal has awarded a huge compensation towards the disability suffered by the claimant on account of the injuries sustained by him, as a result of the accident caused by the driver of the bus owned by the Transport Corporation and the compensation awarded by the Tribunal has to be reduced. The Tribunal has awarded a huge compensation of Rs.7,50,000/- for the 50% disability suffered by the claimant. The accident happened in the year 2016. For an accident of the year 2016, it is a settled practice to award disability compensation at Rs.5,000/- per percentage of the disability. Therefore, for the 50% disability suffered by the claimant, the Tribunal ought to have awarded disability compensation at Rs.2,50,000/- calculated at Rs.5,000/- per percentage of the disability, but instead has erroneously awarded a huge compensation of Rs.7,50,000/- without any basis. Therefore, this Court reduces the disability compensation awarded to the claimant from Rs.7,50,000/- to Rs.2,50,000/- (Rs.5000/- x 50).



9. Insofar as the compensation awarded by this Tribunal towards loss of earning is concerned, the Tribunal has awarded a compensation of Rs.8,30,133/- to the claimant towards loss of earning. The Tribunal, while awarding the said sum, has given detailed reasons in para 17 of the award. The reasons given by the Tribunal are justifiable for the purpose of arriving at the conclusion that the claimant is entitled for compensation at Rs.8,30,133/- towards loss of earning.

10. After giving due consideration to the nature of the injuries sustained by the claimant as well as the period of hospitalization, the Tribunal has rightly awarded a compensation of Rs.40,000/- towards pain and suffering, Rs.35,000/- towards extra nourishment, Rs.20,000/- towards attender charges, and Rs.15,000/- towards transport expenses, which is also confirmed by this Court. Only based on the medical bills produced by the claimant before the Tribunal, the Tribunal has awarded a compensation of Rs.7,93,426/-, which is also confirmed by this Court. Similarly, the compensation awarded by the Tribunal at Rs.1,000/- towards loss of clothing is also a just compensation and it is also confirmed by this Court.



11. For the foregoing reasons, the compensation awarded by the Tribunal under the impugned award is reduced from Rs.24,84,559/- to Rs.19,84,559/- (rounded off to Rs.19,84,560/-), as detailed hereunder:

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Amount awarded by this Court (Rs.)</i>
Disability	7,50,000/- (1,50,000 x 5)	2,50,000/- (5000x50)
Loss of earnings	8,30,133/-	8,30,133/-
Pain and suffering	40,000/-	40,000/-
Extra Nourishment	35,000/-	35,000 /-
Attender Charges	20,000/-	20,000/-
Transport expenses	15,000/-	15,000/-
Medical bills	7,93,426/-	7,93,426/-
Loss of clothing	1,000/-	1,000/-
Total	24,84,559/-	19,84,559/- (rounded off to Rs.19,84,560/-)

12. In the result, the appeal filed by the Insurance Company in C.M.A No.2743 of 2022 is allowed by setting aside the impugned award dated 04.12.2021 passed in M.C.O.P No.109 of 2016 by the Motor Accident Claims Tribunal, namely Special Subordinate Court,



Dharmapuri, insofar as the Insurance Company is concerned and the appeal filed by the Transport Corporation in C.M.A No.2072 of 2022 is partly allowed by reducing the compensation from Rs.24,84,559/- to Rs.19,84,560/-. However, the rate of interest fixed by the Tribunal at the rate of 7.5% per annum is confirmed. The Transport Corporation is directed to deposit the modified award amount i.e, **Rs.19,84,560/-** along with interest and costs, after deducting the amount already deposited, if any, to the credit of MCOP.No.109 of 2016 within a period of six weeks from the date of receipt of a copy of this Judgement. On such deposit being made, the Tribunal is directed to transfer the award amount to the bank account of the Claimant along with accrued interest through RTGS within a period of two weeks thereafter. The Insurance Company is permitted to withdraw the amount already deposited by them before the Tribunal by filing an appropriate application. Consequently, connected Miscellaneous Petitions are closed. No costs.

10.07.2024

Internet: Yes/No

Index: Yes/No

Speaking order/Non-speaking order

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ABDUL QUDDHOSE, J.

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To

1.Motor Accidents Claims Tribunal,
Special Subordinate Court,
Dharmapuri.

2.The Record Clerk,
VR Section,
High Court, Madras.

**C.M.A.No.2072 and 2743 of 2022
&
C.M.P Nos.16050 & 22099 of 2022**

10.07.2024

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