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C.M.A.Nos.1201 & 1205 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2024

CORAM:

THE HONOURABLE MR. JUSTICE K. RAJASEKAR

Civil Miscellaneous Appeal Nos.1201 & 1205 of 2022

C.M.A. No.1201 of 2022

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Salem Division-1, No.12, Ramakrishna Road,
Salem – 636 007.

... Appellant / Respondent

Vs.

M.Cinnusamy

... Respondent / Petitioner

C.M.A. No.1205 of 2022

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Salem Division-1, No.12, Ramakrishna Road,
Salem – 636 007.

... Appellant / Respondent

Vs.

C.Vanidevi

... Respondent / Petitioner

Common Prayer: Civil Miscellaneous Appeals filed under Section 173 of Motor Vehicles Act, 1988 against the Common Award and Decree dated 23.11.2021 passed in M.C.O.P.Nos.1048 & 1095 of 2016 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Namakkal.

For Appellant in both CMAs : Mr.D.Nitin,



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Standing Counsel for TNSTC

WEB COPY For Respondent in both CMAs : Mr.Ma.P.Thangavel

COMMON JUDGMENT

Both the appeals arising out of the Common Award dated 23.11.2021 in M.C.O.P.Nos.1048 & 1095 of 2016, on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Namakkal. The appellant-Tamil Nadu State Transport Corporation has filed this appeal challenging the quantum of compensation awarded in favour of claimants.

2. For the sake of convenience, the parties are referred to hereunder according to their litigative status and ranking before the Tribunal.

3. The Appellant is the respondent in both the Claim Petitions. The claimants in both petitions suffered injury on 19.08.2015 at about 5.30 a.m., while they were travelling in a two-wheeler on the Sankari to Salem By-Pass Main Road near Vaigundam Saravana Bhavan Hotel, due to the negligent driving of the driver of the TNSTC bus bearing Registration No.TN 27 N 1573. The claimant namely Cinnusamy is petitioner in M.C.O.P.No.1048 of 2016 and his wife Vanidevi is petitioner in M.C.O.P.No.1095 of 2016.



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4. The claimant No.1 - Cinnusamy sustained fracture on the middle 1/3rd right side femur and lacerated wound on the right knee and other multiple injuries all over the body. He was admitted into the Vinayaka Multi Specialty Hospital on the date of incident and discharged on 31.08.2015. The claimant No.2 - Vanidevi sustained fracture and laceration present in left side scalp, Right thigh and also multiple injuries all over the body and she was admitted into the Vinayaka Multi Specialty Hospital on 19.08.2015 and discharged on 31.08.2015. After discharged from the hospital, they have came forward with the Claim Petitions claiming compensation for a sum of Rs.10,00,000/- each by invoking section 166 of the Motor Vehicles Act.

5. The appellant – Tamil Nadu State Transport Corporation has contested the claim disputing the negligence as well as the quantum.

6. After considering the evidence placed on record, the Tribunal has awarded compensation as follows:

Claimant Cinnusamy in M.C.O.P.No.1048/2016:

For Loss of Income (Rs.7000 x 3)	= Rs.21,000/-
For Part Permanent Disability 42% (4000 x 42)	= Rs.1,68,000/-
For Pain and Suffering	= Rs.25,000/-



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For Transportation	= Rs.5,000/-
For Nutrition	= Rs.10,000/-
For Loss of Clothing and Ornaments	= Rs.5,000/-
For Medical Expenses	= Rs.1,16,510/-
Total Compensation	= Rs.3,50,510/-

Claimant Vanidevi in M.C.O.P.No.1095/2016:

For Loss of Income (Rs.7000 x 3)	= Rs.21,000/-
For Part Permanent Disability 45% (4000 x 45)	= Rs.1,80,000/-
For Pain and Suffering	= Rs.25,000/-
For Transportation	= Rs.5,000/-
For Nutrition	= Rs.10,000/-
For Loss of Clothing and Ornaments	= Rs.5,000/-
For Medical Expenses	= Rs.1,62,326/-
Total Compensation	= Rs.4,08,326/-

7. Aggrieved over the quantum of compensation awarded in both MCOPs, the appellant – Tamil Nadu State Transport Corporation has approached this Court seeking reduction of compensation.

8. The learned counsel for the appellant-Tamil Nadu State Transport Corporation submits that the injuries sustained by the claimants herein are partial non-functional disability and they had undergone treatment for 10 days in private hospital and the Doctors, who was treated the claimants have

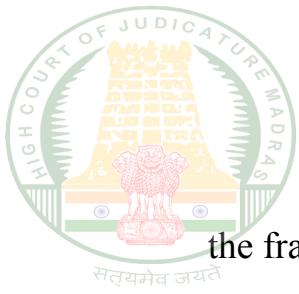


examined as P.W.3 and he has issued Disability Certificate, which is not in accordance with the guidelines for fixing the disability. The percentage of disability fixed by the P.W.3 is also exaggerated hence, prays for modification of the compensation awarded under the head disability. He would further submit that the compensation awarded under other heads are also on the higher side hence prays to modify the same.

9. Per contra, learned counsel for the claimants submitted that after appreciating the evidence placed on record and more particularly the medical evidence adduced on behalf of the claimants by examining P.W.3 and marking medical records, the Trial Court has awarded compensation and the same is just and reasonable. Hence there is no need for modification of the award.

10. I have considered the rival submissions made on both sides and also perused the records.

11. On perusal of the evidence of P.W.3, it shows that he is the Director for the casualty ward of Vinayaka Institute of Medical Science, and on 19.08.2015 both the claimants were admitted for the injuries sustained by them in the road accident. They were undergone surgeries for



the fractures and both were discharged on the same day on 31.08.2015.

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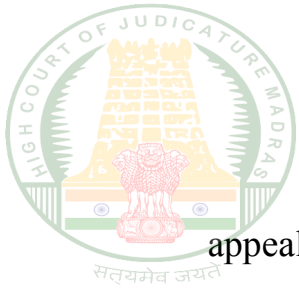
12. For the claimant No.1 namely Cinnusamy, the percentage of disability was fixed as 52% and for the claimant No.2 namely Vanidevi, the percentage of disability was fixed as 55%. The Discharge Summaries of claimant, Ex.P3 and Ex.P7 respectively were also marked. X-rays taken at the time of assessing disability were also marked as Ex.P5 and Ex.P12. P.W.3 has also stated that the assessment of disability made in accordance with the schedule as per the guidelines. This was analyzed by the Tribunal and after observing the disability as well as the medical history, fixed the disability of claimant No.1 to the extent of 42% and claimant No.2 to the extent of 55%. Further, the Tribunal based on the avocation has fixed the income and awarded compensation under the head loss of income during the disability period was fixed as 3 months. Similarly, the Tribunal has awarded compensation under various heads. The Tribunal has applied its mind and has totally accepted the evidence of P.W.3 with regard to the disability and fixed the disability to its wisdom based on its experience. This Court finds further interpretation of the Disability Certificate based on P.W.3 and reduction of percentage is not necessary in these cases. Similarly,



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compensation awarded under various heads also reasonable and within norms, and there is reason placed before me for reduction of same. Hence, I am not inclined to interfere in the award passed by the Tribunal and the same is hereby confirmed.

13. Accordingly, both the appeals are dismissed. The Common Award and Decree dated 23.11.2021 passed in M.C.O.P.Nos.1048 & 1095 of 2016 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Namakkal is hereby confirmed. The Appellant – Tamil Nadu State Transport Corporation is directed to deposit the compensation amount as awarded by the Tribunal along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment to the credit of respective M.C.O.P.Nos.1048 & 1095 of 2016 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Namakkal. On such deposit, the claimants are permitted to withdraw the amount as awarded by the Tribunal along with interest and costs, less the amount if any, already withdrawn. The Tribunal shall disburse the amount by crediting in to the Savings Bank Account of the claimants. There shall be no order as to costs in the present



appeal.

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation Case: Yes/No

To:

1. The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Namakkal.

2. The Section Officer,

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V.R.Section,
High Court,
Chennai.



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K. RAJASEKAR, J.

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