



C.M.A.No.1268 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2024

CORAM:

THE HONOURABLE Mrs.JUSTICE R.KALAIMATHI

C.M.A.No.1268 of 2020

and

CMP No.8605 of 2020

The Managing Director,
Karnataka State Road Transport Corporation Ltd.,
Central Division, K.H.Road,
Bengaluru-27. ... Appellant

vs.

Jayapal, ... Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 11.11.2019 passed passed in M.C.O.P.No.105 of 2018 on the file of the Motor Accident Claims Tribunal, Uthangarai.

For Appellant : Mr.T.Thiyagarajan

For Respondent : Mr.S.P.Yuvaraj

JUDGMENT

Not being satisfied by the award passed by the Motor Accident Claims Tribunal / Uthangarai Sub-Court, dated 11.11.2019, the appellant



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herein / respondent Karnataka Road Transport Corporation, has preferred this Civil Miscellaneous Appeal as regards quantum.

2. The claim petition was filed under Section 166 of Motor Vehicles Act, 1988, claiming compensation of Rs.10,00,000/- for the injuries sustained by the claimant in a road accident that occurred on 02.05.2018.

3. The Tribunal after hearing both sides and upon consideration of oral and documentary evidence has passed an award for a sum of Rs.2,75,000/- with interest at the rate of 7.5% per annum from the date of filing of petition till the date of realisation.

4. The learned counsel Mr.T.Thiyagarajan appearing for the appellant, would strenuously contend that the claimant who is said to be an agricultural coolie and earning a sum of Rs.20,000/- per month: that without any documentary evidence, income of the injured which was fixed at Rs.8,000/- per month is on the higher side: That for the loss of income, no evidence was adduced. Though the disability was assessed by the Medical Board, no calculation details found in the disability certificate: the learned counsel for the appellant prayed for reduction of the compensation.



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5. Per contra, the learned counsel for the respondent/claimant would vehemently argue that upon appreciating the evidence, the Tribunal has passed an award which is reasonable and prayed for dismissal of the appeal.

6. Heard the arguments of the learned counsel for the appellant Mr.T.Thiyagarajan and the learned counsel for the respondent Mr.S.P.Yuvaraj. Perused the materials available on record.

7. At trial, the claimant has examined himself as PW1 and Exs.P1 o P7 were marked. The driver of KSRTC bus, Mr.Nageswaralu was examined as RW1. The disability certificate issued by the Medical Board for the claimant is Ex.C1.

8. It is the evidence of PW1 that on 02.05.2018, at about 16.00 hours, while the petitioner was walking along the Krishnagiri - Uthankarai road near Uthangarai Muniappan Kovil on the left side of the road, at that time a KSRTC bus bearing Reg.No.KA-57-F-2726 came in a rash and negligent manner and dashed on the claimant. Due to the negligent driving



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of the driver of the said KSRTC bus, the accident happened, is not in dispute.

9. As per the claim petition, the age of the injured is 65 years on the date of the accident. He is said to be an agricultural coolie. The Tribunal has fixed the income of the injured at Rs.8,000/-. Considering the age of the claimant, his income is fixed at Rs.6,000/- per month. For loss of income during treatment period, an amount of Rs.18,000/- (Rs.6,000/- X 3) is granted for three months.

10. From a careful perusal of the Medical Records, Ex.P2-Copy of the wound certificate, it appears that the claimant suffered fracture of right neck of scapula, fracture of rib, he was treated as inpatient from 02.05.2018 to 06.05.2018 at Rajeswari Multispeciality Hospital, Dharmapuri. The Medical Board has assessed the disability at 40% which is a partial permanent disability. The Tribunal has granted Rs.3,000/- per percentage. Considering the nature of fracture suffered, his functional disability is taken at 34%, an amount of Rs.1,02,000/- (Rs.3,000/- X 34) is granted for partial permanent disability. In all other aspects, the award of the Tribunal appears to be reasonable and needs no interference.



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Therefore, the Compensation awarded by the Tribunal is reworked and tabulated as hereunder:

Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For Partial Permanent Disability	Rs. 1,20,000/-	Rs. 1,02,000/-	reduced
2	For Transportation, Extra Nourishment and Attender Charges	Rs. 30,000/-	Rs. 30,000/-	confirmed
3	For Pain and Sufferings	Rs. 25,000/-	Rs. 25,000/-	confirmed
4	For Medical Bills	Rs. 73,729/-	Rs. 73,729/-	confirmed
5	For Loss of Income	Rs. 24,000/-	Rs. 18,000/-	reduced
6	For Damages to clothing and articles	Rs. 2,000/-	Rs. 2,000/-	confirmed
	Total	Rs.2,74,729/-	Rs. 2,50,729/-	
	Rounded off to	Rs.2,75,000/-	Rs. 2,51,000/-	

11. Thus, the compensation awarded by the Tribunal is reduced from **Rs.2,75,000/-** to **Rs.2,51,000/-** which would carry interest at the rate of 7.5% per annum.

12. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs.

(ii) The Compensation awarded by the Tribunal is reduced from



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Rs.2,75,000/- to Rs.2,51,000/-.

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(iii) The Appellant / Karnataka Road Transport Corporation is directed to deposit the modified compensation amount i.e., **Rs.2,51,000/-** (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of filing of petition till the date of realisation to the credit of M.C.O.P.No.105 of 2018 on the file of the Motor Accident Claims Tribunal (Subordinate Judge) at Uthangarai, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the respondent/claimant is at liberty to withdraw the same along with interest and costs, less the amount if any already withdrawn, by making necessary cheque application before the Tribunal. Consequently, connected miscellaneous petition is closed.

24.01.2024

Index : Yes/No
Speaking / Non-speaking order
ssn

R.KALAIMATHI, J.,

ssn

To:

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1. The Motor Accident Claims Tribunal,
Subordinate Judge,
Uthangarai.

2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.

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