



WEB COPY



CMA.No.1373 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.1373 of 2023

M. Anandhakumar

.... Appellant

VS.

1. S.P. Manickam

2. Cholamandalam MS General Insurance Company Limited,
2nd Floor, Dare House,
2, NSC Bose Road, Chennai 600 001.

3. The Managing Director,
Tamil Nadu State Transport Corporation (Salem) Limited,
No.12, Ramakrishna Road, Salem-7. ... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 18.08.2022 in M.C.O.P.505/2018 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Krishnagiri.

For Appellant : Mr. I. Siddiq

For R1 : Ms.S.Kiruthika

For R2 : Mr.J. Michael Visuvasam

For R3 : Mr. D. Nitin



WEB COPY



CMA.No.1373 of 2023

J U D G M E N T

The appellant is the claimant in M.C.O.P.505/2018 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Krishnagiri, and he filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.10,00,000/- for the injuries sustained by him in a road accident that occurred on 17.06.2016.

2. The case of the claimant is that on 17.06.2016, he was driving a bus bearing Registration number TN-30-N-117, belonging to the Tamil Nadu State Transport Corporation, on Thiruvannamalai-Hosur Road and at about 2.30 a.m., a lorry bearing Registration No.TN-52-F-9127, belonging to the first respondent, was going ahead of him. Since the driver of the lorry suddenly applied brake in the middle of the road, the claimant rammed the lorry and sustained injuries.

2.1. According to the claimant, the rash and negligent driving of the driver of the lorry bearing Registration No.TN-52-F-9127 was



CMA.No.1373 of 2023

the cause of the accident and that since the said lorry was insured with the second respondent, the Cholamandalam MS General Insurance Company Limited, Chennai, the owner and the insurer are jointly and severally liable to pay compensation to him.

3. In the Tribunal the owner of the lorry remained absent and was set *ex parte*. The second and third respondents contested the claim petition by filing their counter.

4. The Tribunal, after analysing the evidence on record, fastened negligence on the part of the driver of the lorry and the claimant in the ratio 40:60 and directed the second respondent Insurance company to pay compensation of Rs.1,28,900/- (40% of the total compensation of Rs.3,22,243/-) to the claimant together with interest at the rate of 7.5% per annum from the date of the petition till the date of realisation.

5. Aggrieved over the orders passed by the Tribunal, the present appeal is filed by the claimant.



WEB COPY

6. Heard Mr. I. Siddiq, learned counsel appearing for the appellant, Ms. S. Kiruthika, learned counsel appearing for the first respondent, Mr.J. Michael Visuvasam, learned counsel appearing for the second respondent and Mr. D. Nitin, learned counsel appearing for the third respondent.

7. Mr. I. Siddiq, learned counsel appearing for the appellant contended that though the driver of the lorry suddenly applied brake in the middle of the road, the Tribunal had wrongly fastened negligence on the part of the claimant to the extent of 60%. He also contended that the Tribunal has not awarded just compensation to the claimant and therefore, prayed for enhancement of the same.

8. Per contra, learned counsels appearing for the respondents contended that the Tribunal, after analysing the evidence on record, had awarded just compensation and therefore the same need not be disturbed in the present appeal.



CMA.No.1373 of 2023

Negligence

9. It is seen from the records that the accident took place on the National Highways and the lorry bearing Registration No.TN-52-F-9127 was going ahead of the bus driven by the claimant. The driver of the bus should have maintained a minimum distance from the lorry as per the traffic rules. Had the claimant followed the traffic rules, he could have averted the accident. He had infact hit the lorry from behind as a result of which he sustained injuries. Considering the manner of accident, the Tribunal had rightly fixed the negligence on the part of the driver of the lorry and the claimant in the ratio 40:60 and therefore, I do not see any reason to interfere with the same.

Quantum

9.1. The Medical Board attached to Krishnagiri Head Quarters Hospital assessed the partial permanent disability of the claimant as 40%. However, the Tribunal had reduced it to 35% without any basis. Therefore, the partial permanent disability of the claimant is taken up as 40% as assessed by the Medical Board. Since there is no functional disability, the Tribunal awarded a sum of Rs.1,57,500/- towards partial



permanent disability by fixing a sum of Rs.4,500/- per percentage of disability. Considering the age of the claimant and the year of accident, a sum of Rs.5,000/- per percentage of disability is awarded. Hence, a sum of Rs.2,00,000/- (40x5000) is awarded towards partial permanent disability.

9.2. The following tabular column would show the amount awarded by the Tribunal and the amount awarded by this Court under various heads.

<i>S.No.</i>	<i>Description</i>	<i>Amount awarded by Tribunal (Rs.)</i>	<i>Amount awarded by this Court (Rs.)</i>
1.	Partial permanent disability	1,57,500/- (35x4500)	2,00,000/- (40x5000)
2.	Medical expenses	43,343/-	43,343/-
3.	Loss of income	45,000/-	45,000/-
4.	Pain and sufferings	30,000/-	30,000/-
5.	Transportation expenses	17,400/-	17,400/-
6.	Extra nourishment	3,000/-	3,000/-
7.	Damages to the clothes	1,000/-	1,000/-



CMA.No.1373 of 2023

<i>S.No.</i>	<i>Description</i>	<i>Amount awarded by Tribunal (Rs.)</i>	<i>Amount awarded by this Court (Rs.)</i>
8.	Attender charges	15,000/-	15,000/-
9.	Loss of amenities	10,000/-	10,000/-
	Total	3,22,243/-	3,64,743/-
	Less:60% contributory negligence	1,93,346/-	2,18,846/-
	Compensation awarded	1,28,897/- Rounded off to 1,28,900/-	1,45,897/-

9.3. Thus, the compensation awarded by the Tribunal is enhanced to Rs.1,45,897/- that would carry interest at the rate of 7.5% per annum.

10. In the result,

- i. The Civil Miscellaneous Appeal is partly allowed. No costs.
- ii. The compensation awarded by the Tribunal is enhanced to Rs.1,45,897/- (40% of the total compensation amount of Rs.3,64,743/-).



CMA.No.1373 of 2023

WEB COPY

- iii. The appellant / claimant is directed to pay court fee for the enhanced compensation amount, if any, and the Registry is directed to draft the decree only after receipt of Court fee.
- iv. The second Respondent, the Cholamandalam MS General Insurance Company Limited, Chennai, is directed to deposit the enhanced compensation amount of Rs.1,45,897/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.505/2018 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Krishnagiri, within a period of four weeks from the date of receipt of a copy of this order/uploading of this order.
- v. On such deposit being made, the appellant/claimant is at liberty to withdraw the same, after following due process of law.

21.10.2024

Index : Yes/No
Speaking/Non-speaking order

bga

8/10



WEB COPY



CMA.No.1373 of 2023

To

1. Motor Accident Claims Tribunal, Special Sub Court, Krishnagiri.
2. Chola mandalam MS General Insurance Company Limited,
2nd Floor, Dare House,
2, NSC Bose Road, Chennai 600 001.
3. The Managing Director,
Tamil Nadu State Transport Corporation (Salem) Limited,
No.12, Ramakrishna Road, Salem-7.
4. The Section Officer, VR Section, Madras High Court, Chennai.



WEB COPY



CMA.No.1373 of 2023

R.HEMALATHA, J.

bga

C.M.A.No.1373 of 2023

21.10.2024