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C.M.A.No.2978 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE K. RAJASEKAR

Civil Miscellaneous Appeal No.2978 of 2022

Shanmugam

... Appellant

Vs.

1. Rabinson

[Notice to R1 dispensed with for the
time being and separate petition is filed for the same]

2. The Managing Director,

Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
No.37, Mettupalayam Road, Coimbatore.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Award and Decree dated 25.01.2017 passed in M.C.O.P.No.636 of 2012 on the file of the Motor Accident Claims Tribunal, IV Additional District Judge, Erode District at Bhavani.

For Appellant : Ms.K.Vanishri
For Mr.C.Kulanthaivel

For R1 : Ex-parte

For R2 : No appearance



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JUDGMENT

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This appeal has been filed by the claimant seeking for enhancement of compensation awarded in M.C.O.P. No.636 of 2012, dated 25.01.2017 on the file of the Motor Accident Claims Tribunal, IV Additional District Judge, Erode District at Bhavani.

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

3. The claimant has sustained injury involved in the Motor Vehicle Accident on 20.06.2012 at about 10.40 a.m., near Kurinchi Nilakkaadu on Kangayam to Tiruppur Road. Before the Tribunal, the claimant claimed a sum of Rs.5 lakhs as compensation by invoking Section 166 of the Motor Vehicles Act against the first respondent, who is the driver of the bus and the second respondent / State Transport Corporation.

4. The Tribunal after considering the evidence placed on record by both sides, accepted the case of the claimant, partly allowed the claim petition and awarded compensation of Rs.1,19,260/- along with interest at



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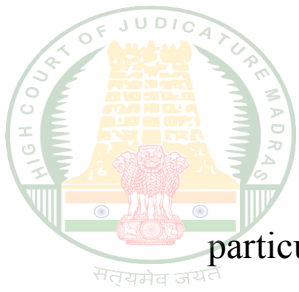
the rate of 7.5% per annum from the date of filing of claim petition till the date of deposit.

5. Aggrieved over the quantum of compensation awarded, this appeal has been filed by the claimant.

6. The learned counsel for the petitioner submits that the petitioner herein has sustained open scalp injury with depressed fracture frontal bone with scalp skin loss and the same was also properly assessed by the P.W.2-Doctor. However, the Tribunal has awarded compensation of Rs.1,80,000/- under the head permanent disability, without giving proper reasons. The learned counsel has also submitted that the compensation awarded under other heads are also on the lower side hence prays to enhance the compensation.

7. I have considered the submissions made by the petitioner as well as perused the records.

8. With regard to the disability sustained by the petitioner, the Tribunal has considered the evidence of P.W.2 in detail and more



particularly, discussed about Ex.P7-Discharge Summary, the Tribunal has gone to the extent of raising a doubt regarding genuinity of Ex.P7-Discharge Summary. Though, in the Discharge Summary, it has been recorded that there is a fracture in the frontal bone of the claimant; P.W.2 Doctor, in his evidence as well as in the Disability Certificate has not stated anything about the scalp injury and depressed fracture on the frontal bone. Further, the Tribunal has also raised serious doubt whether Ex.P7-Discharge Summary was issued to the claimant herein or to some other person.

9. Though after observing several doubts regarding genuinity, it has accepted that the claimant has entitled to get compensation for the injuries sustained and awarded Rs.80,000/- under the head disability. The Tribunal has also awarded Rs.15,000/- under the head loss of income for the treatment period. Though the claimant claiming that he has undergone in-patient treatment from 09.07.2012 to 16.07.2012, the Tribunal has also awarded compensation under various heads as follows:

- 1.Compensation towards Medical bills : Rs.260/-
- 2.Compensation towards pain & sufferings : Rs.15,000/-
- 3.Compensation towards extra nourishment : Rs.3,000/-



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4.Compensation towards transportation : Rs.5,000/-

5.Compensation towards damages
to cloth and articles : Rs.1,000/-

10. Though, the Tribunal has fixed the notional income of the claimant as Rs.4,500/- per month, it has awarded Rs.15,000/- under the head loss of income whereas, there is a discussion for the said sum. Similarly, the Tribunal has awarded Rs.80,000/- after agreeing that the claimant has sustained grievous injuries. On careful perusal of the Disability Certificate, the Doctor has opined that the disability sustained by the claimant was to the extent of 34% for the open scalp fracture whereas, no scalp injury was noted in the Disability Certificate.

11. Under the said circumstances, I am of the view that though there are fractures in the findings of the Tribunal, I am of the view that the compensation awarded under various heads is reasonable and just compensation to be granted to the claimant. Hence, I am not inclined to interfere in the compensation awarded to the claimant and the appeal is liable to be dismissed.



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12. In the result, the Civil Miscellaneous Appeal is dismissed. The

Transport Corporation is directed to deposit the compensation amount 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 M.C.O.P.No.636 of 2012 on the file of the Motor Accidents Claims Tribunal, IV Additional District Judge, Erode District at Bhavani. On such deposit, the appellant is permitted to withdraw the compensation amount awarded by the Tribunal along with interest and costs, less the amount if any, already withdrawn, as per the apportionment fixed by the Tribunal. The Tribunal shall disburse the compensation amount by directly giving credit to the Savings Bank Account of the claimant. No costs.

21.12.2024

ssi

Index:Yes/No

Speaking Order:Yes/No

Neutral Citation Case: Yes/No



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To:

1. The IV Additional District Judge,
Motor Accident Claims Tribunal,
Erode District at
bhavani.
2. The Section Officer,
V.R.Section,
High Court,
Chennai.

K. RAJASEKAR, J.



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