



CMA No.1487 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1487 of 2022

Ramamoorthy

.. Appellant

.Vs.

The Managing Director
Tamil Nadu State Transport Corporation Salem Ltd,
Ramakrishna Salai, Salem.

.. Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, aggrieved by the judgment and decree dated 8.6.2015 made in MCOP No.2166 of 2013, on the file of the Special Subordinate Judge, (Motor Accident Claims Tribunal), Krishnagiri.

For Appellant : Mr.Mukund R.Pandiyan

For Respondent : Mr.D.Nithin

JUDGMENT

The present appeal has been filed by the claimant seeking for enhancement of compensation awarded by the Special Subordinate Judge (Motor Accident Claims Tribunal), Krishnagiri, in M.C.O.P. No.2166 of 2013, dated 8.6.2015.

2.The claimant was traveling in the bus belonging to the respondent Corporation on 13.9.2010 and at about 1.45 pm., the bus was overtaking the JCB vehicle and at that point of time, a lorry was coming in the opposite direction and



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the bus dashed on the lorry and also on the JCB. It is contended that this accident had taken place only due to the rash and negligent driving on the part of the driver of the bus. As a result of this accident, the appellant sustained grievous injuries and he was admitted as an inpatient from 14.9.2010 to 19.9.2010. Even thereafter, he was taking periodical treatment. It is under these circumstances, the claim petition came to be filed before the Tribunal.

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the bus belonging to the respondent Corporation. Having rendered such a finding, the Tribunal proceeded to fix the compensation under various heads as follows:

Sl.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of earning capacity (5000 x 12 x 55% x 16)	Rs.5,28,000/-
2.	Loss of income (5000 x 3)	Rs. 15,000/-
3.	Pain and sufferings	Rs. 50,000/-
4.	Nutrition	Rs. 10,000/-
5.	Transportation	Rs. 7,800/-
6.	Medical Expenses	Rs. 1,08,128/-
7.	Future medical expenses	Rs. 50,000/-
8.	Attender charges	Rs. 10,000/-
9.	Loss of amenities and discomfort of life	Rs. 50,000/-
	Total	Rs. 8,28,928/-



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4.The above compensation was directed to be paid with interest at the rate of 7.5% p.a.

5.The claimant, being aggrieved by the compensation fixed by the Tribunal, has filed this appeal before this Court seeking for enhancement of compensation.

6.Heard Mr.Mukund R.Pandiyar, learned counsel for the appellant and Mr.D.Nithin, learned counsel for the respondent Transport Corporation.

7.This Court has carefully considered the submissions made on either side and the materials available on record. This Court had also carefully gone through the award passed by the Tribunal.

8.The claimant was eking his livelihood by working as a mason and he claimed that he was earning a monthly income of Rs.7,000/-. That apart, the disability of the claimant was assessed by PW.2 and as per the disability certificate marked as Ex.P.10, the disability was assessed at 65%.

9.The Tribunal has taken the income of the claimant as Rs.5,000/- and considering the nature of injury suffered and the avocation of the claimant, decided to adopt the multiplier method. However, while doing so, the disability was taken only as 55% and not 65% as per the certificate issued by PW.2.



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10.The claimant at the time of accident was aged about 31 years. This accident had taken place in the year 2010. The claimant was working as a mason. Therefore, the income of the claimant can be safely fixed at Rs.7,000 pm, as claimed by the appellant. The future prospects at 40% has to be added along with this income which works out to Rs.2800/-. Thus, the total income to be fixed is Rs.9,800/- [7000 + 2800].

11.Insofar as the disability is concerned, PW.2 has assessed the disability as per Ex.P.10 as 65%. There is no contra evidence to dispute the percentage of disability fixed by the doctor. Therefore, there is no valid reason to reduce the percentage of disability from 65% to 55%. Hence, this Court is inclined to take the percentage of disability at 65%.

12.In the light of the income of the claimant being fixed at Rs.7,000/- the loss of income of the claimant for three months also requires enhancement from Rs.15,000/- to Rs.21,000/- [Rs.7000 x 3].

13.Apart from the above, the compensation that has been fixed under the other heads by the Tribunal looks reasonable and does not warrant the interference of this Court.



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14. In the light of the above discussion, the compensation is fixed in the following manner:

Sl.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of earning capacity (9800 x 12 x 65% x 16)	Rs.12,23,040/-
2.	Loss of income (7000x3)	Rs. 21,000/-
3.	Pain and sufferings	Rs. 50,000/-
4.	Nutrition	Rs. 10,000/-
5.	Transportation	Rs. 7,800/-
6.	Medical Expenses	Rs.1,08,128/-
7.	Future medical expenses	Rs. 50,000/-
8.	Attender charges	Rs. 10,000/-
9.	Loss of amenities and discomfort of life	Rs. 50,000/-
	Total	Rs.15,29,968/-

15. It is brought to the notice of this Court the compensation that was fixed by the Tribunal had already been deposited. Hence, the enhanced compensation fixed by this Court shall be paid with interest at the rate of 7.5.% per annum from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. In so far as the enhanced compensation of Rs.7,01,040/- is concerned, the appellant/claimant will not be entitled for interest for the delay period of 1632 days as indicated in the order passed in CMA No.703 of 2022 in CMP.No.703 of 2022, dated 4.7.2022. The other directions issued by the Tribunal with regard to the mode of payment of compensation remain unaltered.



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16.This civil miscellaneous appeal is disposed of with the above directions.

No costs.

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Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
KP

To

1. Special Subordinate Judge
(Motor Accident Claims Tribunal)
Krishnagiri.
2. The Managing Director
Tamil Nadu State Transport
Corporation Salem Ltd,
Ramakrishna Salai, Salem.

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