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CMA.No.2651 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.2651 of 2022 & C.M.P. No.20661 of 2022

and

Cross Objection. No.47 of 2023

C.M.A. No.2651 of 2022

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
No.3/137, Salamedu, Vazhuthareddy & Post,
Villupuram Taluk.

... Appellant

VS.

Ranjith Kumar

... Respondent

CROS. OBJ. NO.47 of 2023

Ranjith Kumar

...Cross Objector

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
No.3/137, Salamedu, Vazhuthareddy & Post,
Villupuram Taluk.

... Respondent



CMA.No.2651 of 2022

WEB COPY

PRAYER in C.M.A. No.2651 of 2022: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 31.03.2022 in M.C.O.P.21 of 2019 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.1, Villupuram.

PRAYER in CROS.OBJ. No.47 of 2023 :

Cross objection filed under Order 41 Rule 22 of the Code of Civil Procedure against the Award dated 31.03.2022 in M.C.O.P.21 of 2019 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.1, Villupuram.

Appearance In C.M.A. No.2651 of 2022

For Appellant : Mr. S.S.Santhosa Kumar
For Respondent : Mr. M.Viruthagiri

Appearance in Cross Objection No. 47 of 2023

For Cross Objector : Mr. M.Viruthagiri
For Respondent : Mr. S.S.Santhosa Kumar

COMMON JUDGMENT

The appellant, the Tamil Nadu State Transport Corporation Limited is the respondent in M.C.O.P.21 of 2019 on the file of the Motor Accident Claims Tribunal, Villupuram, while the Cross Objector is the



CMA.No.2651 of 2022

claimant.

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2. The Cross Objector / claimant filed the claim petition under Section 166 of the Motor Vehicles Act, seeking compensation of Rs.49,00,000/- for the injuries sustained by him in a road accident that occurred on 06.06.2018.

3. The case of the claimant in a nutshell is as follows:

On 06.06.2018, the claimant was riding a motorcycle bearing Registration Number TN-15-4690 on Kumbakonam - Chennai Main Road and at about 10.00 a.m., a speeding bus bearing Registration Number TN-32-N-3227 hit the claimant, as a result of which, the claimant sustained injuries all over his body. He was immediately rushed to Government Medical College Hospital, Villupuram. After getting first aid, he got himself admitted in Sri Manakula Vinayagar Medical College and Hospital, Puducherry, where he was treated as an inpatient for 35 days.

4. According to the claimant, the rash and negligent driving of the driver of the bus bearing Registration Number TN-32-N-3227



CMA.No.2651 of 2022

belonging to the Tamil Nadu State Transport Corporation was the cause of the accident and therefore they are liable to pay compensation to him.

5. The respondent Tamil Nadu State Transport Corporation Limited resisted the claim petition by filing its counter.

6. The Tribunal vide its orders dated 31.03.2022, fastened negligence on the part of the driver of the bus bearing Registration Number TN-32-N-3227 and directed the Tamil Nadu State Transport Corporation Limited to pay compensation of Rs.3,20,072/- to the claimant together with interest at the rate of 7.5% per annum from the date of petition till the date of realisation.

7. Questioning the quantum of compensation awarded by the Tribunal, the Tamil Nadu State Transport Corporation Limited, Villupuram, has filed this appeal in CMA No.2651 of 2022, and the claimant filed Cross Objection No.47 of 2023 seeking enhancement of compensation.



CMA.No.2651 of 2022

WEB COPY

8. Heard Mr.S.S.Santhosa Kumar, learned counsel for the appellant in C.M.A. No.2651 of 2022 and Mr.M.Viruthagiri, learned counsel for the respondent.

9. Mr.S.S.Santhosa Kumar, learned counsel appearing for the appellant, the Tamil Nadu State Transport Corporation Limited contended that the claimant did not have a valid driving licence on the date of accident and in fact he came on the wrong side of the road and invited the accident. However, the Tribunal had wrongly fastened negligence on the part of the driver of the bus. His further contention is that the Tribunal had awarded an exorbitant amount of Rs.3,20,072/- towards compensation and the same has to be scaled down.

10. Per contra Mr.M.Viruthagiri, learned counsel for the claimant contended that the Tribunal had properly analysed the evidence on record and had come to the conclusion that the driver of the bus was responsible for the accident. His further contention is that the Tribunal has not awarded just compensation to the claimant and therefore, prayed for



CMA.No.2651 of 2022

enhancement of the same.

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Negligence :

11. A perusal of the the records shows that the accident took place on Kumbakonam - Chennai main road and there was a head-on collision between the two vehicles. FIR (Ex.P1) was registered against the driver of the bus belonging to the Tamil Nadu State Transport Corporation Limited and the police after completing investigation, laid a final report (Ex.P3) against the driver of the bus. The eyewitness account is also clear as to the rash and negligent driving of the driver of the bus. In the circumstances, the Tribunal was right in concluding that the driver of the bus was rash and negligent in driving his bus. Merely because the rider of the two wheeler was not in possession of a driving licence on the date of accident, it cannot be concluded that he also contributed to the accident, especially, when there is nothing on record to fasten negligence on his part.



CMA.No.2651 of 2022

WEB COPY

Quantum :

12. The discharge summary (Ex.P8) issued by the Government Medical College Hospital, Villupuram, shows that the claimant has sustained the following injuries :

- i. Laceration in right foot 2 x 6 x 3 cm ;
- ii. Laceration in right little finger 5 x 3x 2 cm ;
- iii. Fracture in 2nd 3rd 4th metatarsal / 5th proximal and middle phalanx and comminuted fracture in 5th metacarpal neck.

The Regional Medical Board attached to Government Medical College Hospital, Villupuram has assessed the partial permanent disability of the claimant as 5%. The Tribunal has awarded Rs.5,000/- per percentage of disability since there is no functional disability. The age of the claimant was 26 years and the accident took place in the year 2018. Considering the same, a sum of Rs.7,000/- per percentage of disability is awarded.

12.1. The Tribunal had awarded exorbitant amounts for pain and sufferings, loss of amenities and loss of income. In the opinion of this Court, these amounts have to be scaled down. The following tabular



CMA.No.2651 of 2022

column would show the amount awarded by the Tribunal and the modified amount awarded by this Court under various heads.

<i>S.No</i>	<i>Heads</i>	<i>Amount awarded by Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>
1.	Disability (Rs.7,000/- x 5 = 35,000)	25,000/-	35,000/-
2.	Pain and sufferings	75,000/-	50,000/-
3.	Loss of amenities	30,000/-	10,000/-
4.	Extra nourishment	15,000/-	15,000/-
5.	Damage to clothes	1,000/-	1,000/-
6.	Transportation charges	20,000/-	20,000/-
7.	Loss of income	1,20,000/-	45,000/-
8.	Medical expenses	19,072/-	19,072/-
9.	Attender's charges	15,000/-	15,000/-
TOTAL		Rs.3,20,072/-	Rs.2,10,072/-

13. Thus, the compensation awarded by the Tribunal is hereby scaled down to Rs.2,10,072/- and the said amount would carry interest at the rate of 7.5% per annum from the date of petition.



CMA.No.2651 of 2022

14. In the result,

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i. The appeal in C.M.A. No.2651 of 2022 and the Cross Objection No.47 of 2023 are partly allowed. No costs. Consequently connected miscellaneous petition is closed.

ii. The compensation awarded by the Tribunal is scaled down to Rs.2,10,072/-.

iii. The appellant, the Tamil Nadu State Transport Corporation Limited in C.M.A. No. 2651 of 2022 is directed to deposit the modified award amount i.e., Rs.2,10,072/- (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 within a period of four weeks from the date of receipt of a copy of this order / uploading of this order to the credit of M.C.O.P.21 of 2019 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.1, Villupuram.



CMA.No.2651 of 2022

iv. On such deposit being made the claimant is permitted to withdraw the same with accrued interest and costs, after following due process of law.

03.10.2024

Index : Yes/No

Speaking/Non-speaking order
mtl

To

1. The Motor Accident Claims Tribunal,
Special Sub Court No.1, Villupuram.

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



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CMA.No.2651 of 2022

R.HEMALATHA, J.

mtl

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