



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA Nos.2466 of 2022 & 21 of 2024
and CMP No.170 of 2024

CMA No.2466 of 2022

Jayaprakash @ Prakash

.. Appellant

.Vs.

The Managing Director
Tamil Nadu State Transport Corporation Ltd.,
Bharathipuram
Saem Main Road
Dharmapuri.

.. Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award in judgment and decree dated 18.3.2022 made in M.C.O.P.No.256 of 2016, on the file of the Motor Accident Claims Tribunal and Special District Court for motor accident claims cases, Dharmapuri.

For Appellant : Mr.S.P.Yuvaraj

For Respondent : Mr.D.Nitin



CMA No.21 of 2024

The Managing Director
Tamil Nadu State Transport Corporation Ltd.,
Bharathipuram, Salem Main Road
Dharmapuri.

.. Appellant

.Vs.

Jayaprakash @ Prakash

.. Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award in judgment and decree dated 18.3.2022 made in M.C.O.P.No.256 of 2016, on the file of the Motor Accident Claims Tribunal and Special District Court for motor accident claims cases, Dharmapuri.

For Appellant : Mr.D.Nitin

For Respondent : Mr.S.P.Yuvaraj

COMMON JUDGMENT

These appeals have been filed both by the Transport Corporation as well as the claimant against the award passed by the Motor Accident Claims Tribunal (Special District Court) Dharmapuri, in M.C.O.P.No.256 of 2016, dated 18.3.2022.

2.The case of the claimant is that on 18.1.2010, he traveled in the bus belonging to the Transport Corporation. At about 4.30 pm, the bus stopped at Ekkandahalli bus stop. Even before the claimant got down from the bus, the bus started moving and as a result, the claimant fell down from the bus and



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sustained grievous head injuries. The injury resulted in contusion in the brain and fracture of the temporal bones. The disability was assessed by the Medical Board at 60% and the disability was psychiatric morbidity. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the negligence on the part of the bus driver. Having rendered this finding, the Tribunal proceeded to fix the total compensation at Rs.9,49,340/- in the following manner:

Sl. No.	Compensation awarded under the head	Amount (in Rs.)
1.	Compensation for physical disability	8,87,040/-
2.	Pain and suffering	7,500/-
3.	Extra nourishment expenses	5,000/-
4.	Attender charges	2,500/-
5.	Medical expenses	44,800/-
6.	Transport charges	2,500/-
	Total	9,49,340/-

4.The above compensation was directed to be paid with 7.5% p.a.



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5.The Transport Corporation by questioning the negligence attributed against the driver of the bus have filed CMA No.21 of 2024. The claimant not being satisfied with the quantum of compensation fixed by the Tribunal has filed CMA No.2466 of 2022, seeking for enhancement of compensation.

6.Heard learned counsel for the appellant and the learned counsel for the respondent.

7.Insofar as the aspect of negligence is concerned, it was contended that the Tribunal did not take into consideration the evidence of the bus driver who was examined as RW.1. The learned counsel submitted that even the FIR that was registered against the driver of the bus, did not result in any final report. Therefore, for the mistake that was committed by the claimant by getting down from a moving vehicle, the negligence cannot be put against the driver.

8.The Tribunal considered the entire evidence in a proper prospective and upon relying with the evidence of PW.1, Ex.P.1, the evidence of RW.1 and RW.2, it was concluded that the accident had taken place only due to the rash and negligent act on the part of the driver of the bus. In the instant case, surprisingly, the conductor of the bus was not examined and he could have easily give the evidence as to how the accident took place in this case.



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Therefore, the evidence of PW.1 who is the claimant in this case assumes significance and it was rightly acted upon by the Tribunal. This Court therefore holds that the finding rendered by the Tribunal with respect to the negligence on the part of the driver of the bus does not require the interference of this Court.

9.The next issue pertains to the compensation that was fixed by the Tribunal. In the instant case, the accident had taken place in the year 2012 and the claimant was working as a cloth cutting master in a garment company. The Disability Certificate which was marked as Ex.X-1 shows that the injury has resulted in psychiatric morbidity. That apart, it is also evident from Ex.P.7 to Ex.P.10, Ex.P.12 and Ex.P.13 that the claimant has been consulting various doctors since he has been experiencing severe headache and giddiness and also loss of memory. It is only under these circumstances, the Tribunal had applied the multiplier method. While doing so, the Tribunal has fixed the monthly income at Rs.5,000/-. However, the pay slip which was marked as Ex.P.15 and which pertains to the month of February 2009 shows that the income of the claimant was Rs.7,000/- p.m. There is no reason to disregard this pay slip. Therefore, this Court is inclined to fix the monthly income at Rs.7000/-. The claimant was aged about 35 years at the time of accident. Therefore, 40% can be added towards future prospects. Thus, the total monthly income will work out to Rs.9,800/- [Rs.7,000/- + Rs.2,800/-]. Taking this to be the monthly



income, the total compensation under the head of 'disability' will workout to Rs.11,28,960/- [Rs.9,800 x 12 x 16 x 60/100]

10.The Tribunal has fixed Rs.7,500/- towards pain and suffering. Considering the nature of head injuries sustained by the claimant and also the fact that he was undergoing severe headache and giddiness and also loss of memory and also the fact that he was not able to concentrate on his work, this Court is inclined to enhance the compensation under the head of pain and suffering to Rs.25,000/- .

11.The claimant was undergoing treatment as an inpatient for nearly 8 days. Hence, this Court is inclined to increase the compensation under the head of extra nourishment to Rs.15,000/- and attender charges to Rs.15,000/-.

12.The compensation that has been fixed under the other heads looks reasonable and does not require the interference of this Court.

13.In the light of the above discussion, the compensation awarded by the Tribunal is modified as follows:



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Sl.No.	Compensation awarded under the head	Amount awarded by the Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1.	Compensation for physical disability	8,87,040/-	11,28,960/-
2.	Pain and suffering	7,500/-	25,000/-
3.	Extra nourishment expenses	5,000/-	15,000/-
4.	Attender charges	2,500/-	15,000/-
5.	Medical expenses	44,800/-	44,800/-
6.	Transport charges	2,500/-	2,500/-
	Total	9,49,340/-	12,31,260/-

14.The compensation awarded by the Tribunal at Rs.9,49,340/- is enhanced to Rs.12,31,260/-. The respondent Transport Corporation is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% p.a. 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. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.



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N. ANAND VENKATESH., J

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15. In the result, CMA No.2466 of 20202, is allowed in the above terms.
No costs. CMA.No.21 of 2024, shall stand dismissed. No costs. Consequently,
connected CMP No.170 of 2024 is closed.

16.04.2024

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

To

1. The Managing Director
Tamil Nadu State Transport Corporation Ltd.,
Bharathipuram
Saem Main Road
Dharmapuri.

2. Motor Accident Claims Tribunal
(Special District Court) Dharmapuri.

CMA Nos.2466 of 2022 & 21 of 2024



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