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CMA.No.1349 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

C.M.A.No.1349 of 2024

C.Sakthivel (Died)

1. Gayathri

2. Minor Dharshan

Rep. by his mother as Natural Guardian

3. Sarathammal

... Appellants

vs.

1. M.Vijayan

2. The Tamilnadu State Transport Corporation,

Rep. by its Managing Director,

No.37, Mettupalayam Road,

Coimbatore.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award, dated 20.02.2023 in M.C.O.P.1369/2014 on the file of the Motor Accident Claims Tribunal, Tirupur.

For Appellants : Mr.K.Myilsamy

For R2 : Mr.M.Murali Vinoth

J U D G M E N T



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The appellants are the legal heirs of the deceased Sakthivel in M.C.O.P.1369/2014 on the file of the Motor Accident Claims Tribunal, Tirupur. Sakthivel filed the claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation of Rs.25,00,000/- for the injuries sustained by him in the a road accident which happened on 15.05.2014.

2. The brief case of the appellants / claimants is as follows :

On 15.05.2014, Sakthivel (deceased) was travelling as a pillion rider in a two wheeler bearing Registration number TN 38 AF 7376 on Parappalayam - Uthukuli Road. When he was nearing Karupparayan Kovil, at about 3.00 p.m., a bus bearing Registration number TN 33 N 2714 belonging to the Tamilnadu State Transport Corporation, hit the two wheeler, as a result of which, he sustained injuries all over his body. He was immediately rushed to Kumaran hospital where he was admitted as an inpatient for about a month.

3. According to the claimants, the rash and negligent driving of the driver of the bus bearing Registration Number TN 33 N 2714



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belonging to the respondent Transport Corporation was the cause of the accident and therefore, the respondent is liable to pay compensation to them.

4. In the Tribunal, the first respondent, the driver of the bus remained absent and was set *exparte* and the Tamilnadu State Transport Corporation contested the claim petition.

5. The Tribunal, after analysing the evidence on record, awarded a compensation of Rs.2,75,940/- together with interest at the rate of 7.5% per annum from the date of petition till the date of realisation, vide its orders dated 20.02.2023.

6. Aggrieved over the quantum of compensation awarded by the Tribunal, the appellants / claimants have filed the present appeal under Section 173 of the Motor Vehicles Act.

7. Heard Mr.K.Myilsamy, learned counsel appearing for the appellants and Mr.M.Murali Vinoth, learned counsel for the second



respondent.

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8. Mr.K.Myilsamy, learned counsel for the appellants contended that the claimant (deceased) was working as a two wheeler Mechanic, earning a sum of Rs.12,000/- per month. However, the Tribunal had fixed a meagre sum of Rs.10,000/- as his monthly notional income. He also contended that though the claimant (deceased) sustained 60% of partial permanent disability, no amount was awarded towards loss of income and for medical expenses. He therefore, prayed for enhancing the compensation.

9. Per contra Mr.M.Murali Vinoth, learned counsel appearing for the second respondent contended that the Award passed by the Tribunal is based on the well laid principles of law which were in vogue at the time of passing of the order and therefore, the same need not be disturbed at this stage.

10. A perusal of the discharge summary issued by the Kumaran hospital, Tirupur shows that the claimant C.Sakthivel (deceased) was admitted as an inpatient from 15.05.2014 to 16.06.2014. He had sustained



head injury and he was managed with ventilator support. On 08.06.2014,

Trechiostomy tube was removed and thereafter he was transferred to ward.

He has adduced medical bills to the tune of Rs.4,67,700/-. However, the Tribunal had awarded only a sum of Rs.55,904/- towards medical expenses on the ground that the claimant's name is not mentioned in some of the bills. The bills produced by the claimant matches with the treatment given to him and therefore mere omission of the name of the claimant's name in some of the bills would not disentitle him from claiming the said amount.

11. The claimant was working as a two wheeler mechanic and the accident took place in the year 2014. The Medical Board attached to the Government Hospital, Tirupur had fixed the partial permanent disability as 60%. Since there is no functional disability, this Court is of the opinion that fixing a sum of Rs.5,000/- per percentage of disability would meet the ends of justice.

12. The award passed by the Tribunal under various heads is modified as stated below:



S.No.	Heads	Award of the Tribunal	Award of this Court
1	Partial Permanent Disability (60% X 5,000)	Nil	Rs.3,00,000/-
2	Expenses towards transportation	Rs.20,000/-	Rs.20,000/-
3.	Expenses towards Extra Nourishment	Rs.50,000/-	Rs.50,000/-
4.	Expenses towards attender charges	Rs.25,000/-	Rs.25,000/-
5.	Damages towards cloths and articles	Rs.5,000/-	Rs.5,000/-
6.	Loss of income for the period of 12 months	Rs.1,20,000/-	Rs.2,44,000/-
7.	Medical Bills	Rs.55,904/-	Rs.5,23,604/- (4,67,700 + 55,904)
	Total	Rs.2,75,904/-	Rs.11,63,604/-

13. Thus, the compensation awarded by the Tribunal is enhanced from Rs.2,75,904/- to Rs.11,63,604/- which would carry interest at the rate of 7.5% per annum.

14. In the result,

- The Civil Miscellaneous Appeal is allowed. No costs.
- The compensation awarded by the Tribunal is enhanced to Rs.11,63,604/- .



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- iii. The second respondent, the Tamilnadu State Transport Corporation is directed to deposit the modified compensation amount i.e. Rs.11,63,604/- (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.1369/2014 on the file of the Motor Accidents Claims Tribunal, Tirupur.
- iv. On such deposit being made the claimants are permitted to withdraw the same with accrued interest and costs, after following due process of law.
- v. The appellants/claimants are not entitled to claim any interest for the period of delay of 47 days in filing this appeal.

27.08.2024

Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes / No
vum

R.HEMALATHA, J.

vum

To



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1.The Motor Accidents Claims Tribunal,
Tirupur.

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2.The Section Officer, VR Section,
Madras High Court, Chennai.

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