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C.M.A.Nos.83 and 154 of 2001

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

C.M.A.Nos.83 and 154 of 2001

Metropolitan Transport Corporation Ltd.,
Rep. by its Managing Director, (Division II)
Ayanavaram, Chennai – 23.
(Formerly known as Dr.Ambedkar
Transport Corporation Ltd.,)

... Appellant in C.M.A.No.83 of 2001

N.Kaliaperumal

... Appellant in C.M.A.No.154 of 2001

Vs.

N.Kaliaperumal

... Respondent in C.M.A.No.83 of 2001

Metropolitan Transport Corporation Ltd.,
Rep. by its Managing Director, (Division II)
Ayanavaram, Chennai – 23.
(Formerly known as Dr.Ambedkar
Transport Corporation Ltd.,)

... Respondent in C.M.A.No.154 of 2001

Common Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award and Decree dated 12.12.2000 made in M.C.O.P.No.1591 of 1997 on the file of Motor Accidents Claims



C.M.A.Nos.83 and 154 of 2001

Tribunal (VI Small Causes Court), Chennai.

C.M.A.No.83 of 2001 :

For Appellant : Mr.Murali Vinoth

For Respondent : Ms.P.T.Salem Fathima

C.M.A.No.154 of 2001:

For Appellant : Mr.P.T.Saleem Fathima

For Respondent : Mr.Murali Vinoth

COMMON JUDGEMENT

Aggrieved by the compensation granted by the Motor Accidents Claims Tribunal (VI Small Causes Court), Chennai in M.C.O.P.No.1591 of 1997 dated 12.12.2000, the claimant as well as the Transport Corporation have filed their respective appeals before this Court.

2. For the sake of convenience the appellant in C.M.A.No.83 of 2001 is hereinafter referred to as 'Transport Corporation' and the appellant in C.M.A.No.154 of 2001 is hereinafter referred to as 'claimant'.



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3. Brief facts which are necessary for disposal of these appeals are as follows:-

(i) On 05.03.1997, at about 11.30 hours, when the injured / claimant was alighting the bus bearing Regn.No.TN 01 N 1364 belonging to the Transport Corporation near a bus station, the driver of the Transport Corporation took the bus in a rash and negligent manner, due to which the claimant fell down from the bus and sustained grievous injuries all over the body. Thereafter, the claimant has filed a claim petition claiming compensation of Rs.11,00,000/-.

4. Before the Tribunal, the claimant examined two witnesses viz., P.W.1 to P.W.3 and marked Exs.P.1 to Ex.P.6. The Transport Corporation examined R.W.1 to R.W.3 and marked Ex.R1. After adjudication, the Tribunal awarded a sum of Rs.5,46,100/- as compensation to the claimants. Not satisfied with the same, the claimant has filed C.M.A.No.154 of 2001 seeking enhancement and aggrieved over the said compensation, the Transport Corporation has filed C.M.A.No.83 of 2001.



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5. The learned counsel appearing for the claimant submitted that as against the award passed in MCOP.No.1591 of 1997, the claimant and Transport Corporation have filed Civil Miscellaneous appeals before this Court in C.M.A.Nos.154 and 83 of 2001 respectively. Aggrieved over the common judgement dated 29.01.2007 passed by this Court, the claimant has preferred an appeal before the Hon'ble Apex Court in Civil Appeal No.8639 of 2013 arising out of S.L.P.(C).No.6685 of 2007, wherein the Hon'ble Apex Court following the decision of ***K.Suresh Kumar Vs. New India Assurance Company Limited & Anr., reported in 2012 12 SCC 274*** had set aside the judgement dated 29.01.2007 passed by this Court and remanded the matter to this Court for fresh adjudication. Hence, the present appeals have come up for adjudication.

6. He further submits that the above said accident happened solely due to the rash and negligent driving on the part of the driver of the Transport Corporation's bus. He further contended that, the claimant is a Fisherman, due to the above said accident, his left leg below knee was amputated and that the



extent of the disability sustained by the claimant would really hamper the claimant from discharging his work. Though the left leg of the claimant was amputated, however, the Doctor has fixed only 80% towards permanent disability instead of fixing 100% which is *per se* unsustainable. Though the Tribunal has rightly held that the negligence was on the part of the driver of the Transport Corporation's Bus, however, it erred in awarding a lumpsum compensation of Rs.3,00,000/- towards 'loss of future earning capacity' and Rs.1,00,000/- towards 'disability' without adopting any method, which is *per se* unsustainable. Accordingly, he prayed for passing appropriate orders.

7. Per contra, the learned counsel appearing for the Transport Corporation submitted that, in the absence of any proof of income, the Tribunal has fixed erred in determining the monthly income of the claimant as Rs.3,000/- and a sum of Rs.18,000/- (Rs.3,000/- x 6) has been granted under the head “loss of income during treatment period” which is *per se* unsustainable. Moreso, the compensation awarded under the head “pain and suffering” is also highly excessive. The compensation awarded under the other



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heads are also on the higher side and the same requires interference.

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8. Heard the learned counsel for the claimant and the Transport Corporation and perused the materials available on record.

9. Admittedly, the accident happened on 05.03.1997. More so, P.W.1, claimant and P.W.2, the eye witness have also clearly deposed that the driver of the Transport Corporation's bus came in a rash and negligent manner and caused the said accident. Due to which, the left leg of the claimant was amputated. In order to disprove the same, the Transport Corporation has not examined any independent eye witness. Upon considering the oral and documentary evidence, the Tribunal has fastened the entire negligence as against the driver of the Transport Corporation and directed the Transport Corporation to pay the entire compensation, which does not require any interference.

10. The another issue is with respect to quantum of compensation



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awarded by the Tribunal. Since the right leg of the claimant was amputated, fixing 80% towards disability cannot be sustained. Hence, this Court is inclined to fix 100% towards disability following the decision of the Hon'ble Apex Court in the case of ***Raj Kumar Vs. Ajay Kumar & Anr.*** reported in ***2011 (1) SCC 343***. Moreso, the Tribunal without any rational, has awarded lump sum compensation of Rs.1,00,000/- towards the disability suffered by the claimant and Rs.3,00,000/- towards loss of income which is erroneous. Since, the disability sustained by the claimant is of functional in nature, this Court adopts multiplier method by clubbing the compensation awarded by the Tribunal under the heads disability and loss of income into a single head 'loss of income'. Applying the ratio laid down by the Hon'ble Supreme Court in the case of ***Syed Sadiq Vs. United India Insurance Company*** reported in ***2014 (1) TANMAC 459***, fixing a notional income of Rs.4,000/- and adding future prospects at 25%, as has been held by the Constitution Bench in the case of ***National Insurance Company Limited Vs. Pranay sethi and others*** reported in ***2017 (16) Supreme Court Cases 680***, the total income per month is quantified at Rs.5,000/- and the injured being aged about 49 years, as



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evidenced from the records, adopting the multiplier of 13 as fixed by the Apex Court in the case of *Sarla Verma and Ors. v. DTC & Ors.* reported in (2009) 6 SCC 121, the loss of income to the claimant is arrived at Rs.5000/- * 12 * 13 = Rs.7,80,000/-

11. A sum of Rs.18,000/- , Rs.100/-, 30,000/- have been awarded under the heads loss of income during treatment period, Damages to clothes and mental agony which is not sustainable. Hence the same are set aside. A sum of Rs.15,000/- and Rs.2,000/- has been awarded under the head attender charges and Transportation which is on the lower side and the same is enhanced to a sum of Rs.20,000/- and Rs.10,000/- respectively. A sum of Rs.75,000/- has been awarded under the head “pain and suffering” which is on the higher side and the same is reduced to a sum of Rs.50,000/-. A sum of Rs.6,000/- has been awarded under the head “extra nourishment” which is on the lower side and the same is enhanced to a sum of Rs.10,000/-.

12. In the above circumstances, the compensation awarded by the



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Tribunal is modified as under :-

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Heads	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
Loss of income	3,00,000/-	7,80,000/-
Disability	1,00,000/-	-
Loss of income during treatment period	18,000/-	-
Damages to clothes	100/-	-
Transportation	2,000/-	10,000/-
Attender charges	15,000/-	20,000/-
Pain and suffering	75,000/-	50,000/-
Mental agony	30,000/-	-
Extra nourishment	6,000/-	10,000/-
Total	5,46,100/-	8,70,000/-

13. The appeal in C.M.A.No.154 of 2001 filed by the claimant is allowed in part and appeal in C.M.A.No.83 of 2001 filed by the Transport Corporation is dismissed with the foregoing reasons. Accordingly, the impugned Award of the Tribunal is modified by enhancing the compensation amount from **Rs.5,46,100/-** to **Rs.8,70,000/-**. The Transport Corporation is directed to deposit the said enhanced amount to the credit of M.C.O.P.No.1591



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of 1997 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of six (6) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the compensation amount directly to the bank account of the claimant through RTGS within a period of two (2) weeks thereafter. The claimant is not entitled for any interest for the default period if any. There shall be no order as to costs in the present appeals.

13.11.2024

Index : Yes / No
Speaking Order / Non-speaking order
Neutral Citation Case : Yes / No
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To

1. Managing Director, (Division II)
Metropolitan Transport Corporation Ltd.,
Ayanavaram, Chennai – 23.
(Formerly known as Dr.Ambedkar
Transport Corporation Ltd.,)

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



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M.DHANDAPANI,J.,

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