



CMA.No.502 of 2

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.M.A.No.502 of 2024

and

C.M.P.No.5034 of 2024

The Managing Director,
Tamil Nadu State Transport Corporation
(Coimbatore) Division I,
Kangayam Road, Tiruppur District.

... Appellant

Vs.

Vairavamoorthy

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award dated 22.08.2022 made in MCOP.No.2025 of 2018 on the file of the Exclusive Motor Accident Claims Tribunal, Presiding Officer, Tirupur.

For Appellant : Mr.M.Murali Vinodh

For Respondent : Mr.Ma.Pa.Thangavel



J U D G M E N T

(Judgment of the Court was delivered by **R.SUBRAMANIAN, J.**)

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Challenge in this appeal is to the quantum of compensation awarded for the injuries suffered by one Vairavamoorthy, the respondent, who was aged about 29 years, in the motor accident that occurred on 30.06.2018.

2. The claimant sought for a compensation of Rs.70,00,000/- contending that because of the injuries suffered in the accident his left leg has been amputated below the knee and he is unable to pursue his avocation as a centering worker, resulting in 100% loss of earning power. It was also claimed that the claimant was earning a sum of Rs.40,000/- per month by doing centering work.

3. The Corporation resisted the claim contending that the injuries are simple injuries and the claim of Rs.70,00,000/- is unsustainable. It was also contended that there was contributory negligence on the part of the claimant who was riding the two-wheeler. The quantum of compensation claimed on various heads was also disputed.



4. Before the Tribunal the claimant was examined as PW1 and Exs.P1 to P5 were marked. One Arunpandi, driver of the bus was examined as RW1 and the disability certificate issued by the Medical Board was marked as Ex.X1.

5. The Tribunal going by the FIR and the charge sheet which were filed as Exs.P1 and P2 concluded that the accident occurred due to the rash and negligent driving of the driver of the bus. The said finding was not under serious challenge.

6. Mr.M.Murali Vinodh, learned counsel appearing for the appellant Transport Corporation would contend that the quantum of compensation awarded, particularly on the heads of extra nourishment, loss of amenities and loss of marital prospects are on the higher side.

7. The Tribunal has taken the monthly notional income of the claimant at Rs.9,000/- and added 40% towards future prospects and arrived at the monthly loss of income at Rs.12,600/-. The annual loss of income



was arrived at Rs.1,51,200/-, applying the multiplier '17', the total loss of dependency was arrived at Rs.25,70,400/-. On the other heads the Tribunal has awarded the following amounts:-

<i>Heads</i>	<i>Amount Awarded</i>
Expense towards transportation	Rs.25,000/-
Expense towards extra nourishment	Rs.1,00,000/-
Expense towards attender charges	Rs.30,000/-
Damages towards cloths and articles	Rs.5,000/-
Expenses towards prosthetic limb	Rs.3,00,000/-
Pain and Sufferings, Loss of amenities, Future medical expenses and loss of marital prospects (Rs.1,50,000/- + Rs.1,00,000/- + Rs.50,000/- + Rs.2,00,000/-)	Rs.5,00,000/-

Thus, the total compensation was arrived at **Rs.35,84,400/-**.

8. Mr.M.Murali Vinodh, learned counsel appearing for the appellant/ Transport Corporation would vehemently contend that the compensation awarded towards extra nourishment and pain and sufferings and non-



pecuniary damages at Rs.5,00,000/- is on the higher side.

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9. We have considered the submissions of the learned counsel for the appellant. Though we find some force in the contention of the learned counsel for the appellant, we find that the Tribunal has taken Rs.9,000/- as monthly income for the accident that had occurred in the year 2018, which in our considered opinion is on the lower side. We therefore do not see any reason to interfere. Since the injured claimant has lost his left leg below the knee and he would not be able to continue his avocation viz., doing centering work, we find that the award is on the whole reasonable.

10. The appeal therefore fails and it is accordingly **dismissed**. No costs. Consequently, the connected miscellaneous petition is closed.

(R.S.M., J.) (R.S.V., J.)
06.03.2024

dsa

Index : No

Internet : Yes

Neutral Citation : No

Speaking order



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To
The Presiding Officer,
Exclusive Motor Accident Claims Tribunal,
Tirupur.



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R.SUBRAMANIAN, J.
and
R.SAKTHIVEL, J.

dsa

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