



C.M.A.No.2129 of 2023

IN THE HIGH OF JUDICATURE AT MADRAS

DATED : 01.02.2024

**Coram
The Hon'ble Mr.Justice Krishnan Ramasamy**

**C.M.A.No.2129 of 2023
and
C.M.P.No.20648 of 2023**

The Managing Director
Tamil Nadu State Transport Corporation Ltd.,
(Villupuram) Division -II, Rangapuram,
Vellore Region, Vellore -9.

... Appellant

Vs.

S.Kajendiren

...Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 27.06.2022 made in M.C.O.P.No.177 of 2018, on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate, Vellore.

For Appellant : Mr.C.R.Sureshkumar

Respondent : Mr.R.Nalliyappan



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JUDGEMENT

This instant Appeal is preferred against the award passed by the Motor Accident Claims Tribunal cum Chief Judicial Magistrate, Vellore (hereinafter, referred to as the 'Tribunal') dated 27.06.2022 made in M.C.O.P.No.177 of 2018.

2. On 14.01.2018, at about 08.15 a.m. when the claimant was riding his bicycle at Katpadi to Gudiyattam Road, near Kilithanpattarai Bus Stop, a Bus, bearing Regn.No.TN-23-N-1728, driven by its driver, came in a rash and negligent manner with high speed and dashed against the claimant, due to the said accident, the petitioner's sustained crush injury on his right hand as well as multiple injuries all over the body. Hence, the claimant filed a Claim Petition seeking a sum of Rs.25,00,000/- as compensation.

3. The Tribunal, on the basis of oral and documentary evidence held that the accident took place due to the rash and negligence on the part of the driver of the Bus belonging to the Transport Corporation, and hence,



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directed the Transport Corporation to pay a sum of Rs.8,75,000/- as compensation to the claimant. The breakup details of the compensation awarded by the Tribunal is as follows:-

<i>Sl.No.</i>	<i>Heads</i>	<i>Award</i>
1	For Injury of 50%, Loss of Earning & Partial Loss of Earning	Rs.7,92,000/-
2	Pain and Sufferings	Rs.50,000/-
3	Extra Nourishment and Extra Nutrition Foods	Rs.20,000/-
4	Transportation	Rs.10,000/-
5	Damages to Clothing and Articles	Rs.3,000/-
	Total	Rs.8,75,000/-

4. Challenging both Liability and Quantum of Compensation, the present Civil Miscellaneous Appeal has been preferred by the appellant/Transport Corporation.

5. Mr.C.R.Sureshkumar, learned counsel appearing for the appellant/Transport Corporation would submit that there is suspicion with regard to the occurrence of the accident itself, because, the accident occurred on 14.01.2018, whereas, First Information Report was filed



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belatedly on 20.01.2018, and further, in Ex.P.7, Accident Register, it was mentioned that the 'Road Transport Accident' occurred between the injured with his cycle along with bus. Further, the driver of the Bus was also examined as R.W.1, who deposed that immediately, after the accident, he took the bus to the Police Station, however, he was asked to go back, since, no complaint was received regarding the alleged incident. Therefore, the learned counsel contended that when the occurrence of the accident itself on the said date is under suspicion, the appellant/Transport Corporation cannot be mulcted with any liability.

5.1 The learned counsel appearing for the appellant also challenged the quantum of compensation awarded by the Tribunal. The learned counsel submitted that at the time of the accident, the deceased was aged about 55 years, doing only mason work, and due to the accident, though as per Ex.C.1, he sustained 50% disability, the Tribunal, while determining compensation under the head, "Loss of Earning due to Disability" ought not to have taken the entire disability as per Ex.C.1, fixed the notional monthly income of the deceased at Rs.12,000/-which is excessive. Further, it is



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contended that the Tribunal also erred in adopting multiplier method instead of percentage method, which has also resulted in awarding such an exorbitant sum of Rs.7,92,000/- under the said head. Therefore, the learned counsel prayed for appropriate reduction. The learned counsel furthermore submitted that the even the award passed by the Tribunal under other heads are on the higher side and hence, seeks appropriate reduction.

6. Mr.R.Nalliyappan, learned counsel for the respondent/claimant would submit that the award passed by the Tribunal both on the aspects of Liability and Quantum are just and fair and warrants no interference.

7. Heard the learned counsel appearing for the appellant/Transport Corporation and learned counsel for the respondent/claimant and perused the materials available on record.



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Liability:-

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8. Upon perusal of oral and documentary evidence, it is seen that though the accident occurred on 14.01.2018, and the F.I.R. has been filed belatedly on 20.01.2018, in the F.I.R., R.W.1, driver of the Bus deposed that the accident took place between the injured cycle and the bus belonged to the Transport Corporation. Therefore, when the driver of the Bus, himself, who is sole cause for the accident has deposed evidence that the accident took place between the bicycle and the Bus, both the occurrence of the accident as well as the very involvement of the concerned vehicle are clear.

8.1 It is no doubt true that it is the duty of the concerned Official, working in the Hospital to inform about the occurrence of the accident to the Police, and based on such information, the concerned Jurisdictional Police have to visit the place of occurrence/accident and file F.I.R. However, in the present case, it is not known as to whether the Hospital Authorities have reported about the occurrence of the accident to the Police Officials or not. Further, it is seen that there is also negligence on the part



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of the Police Officials, as they failed to register the complaint as regards the occurrence of the accident, despite the fact that the driver of the Bus, *bona fide*, informed the Police regarding the accident, by immediately taking the bus to the Police Station on the very same date itself.

8.2 Therefore, on consideration of the above facts and circumstances of the case, it is crystal clear that the accident took place between the injured's bicycle and the Transport Corporation Bus on 14.01.2018 and that the Tribunal, on proper evaluation of both oral and documentary evidence, came to the right conclusion that the accident took place due to the rash and negligence on the part of the driver of the Bus and this Court does not find any error in the decision making process on the part of the Tribunal in fastening 100% liability against the driver of the Bus. Accordingly, findings rendered by the Tribunal with regard to the negligence aspect stands confirmed.



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Quantum :-

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9. Even the contention of the learned counsel for the appellant with regard to the Quantum of Compensation determined by the Tribunal merits no consideration. This Court supports such conclusion with the following reason:-

9.1 Since it is the contention of the learned counsel appearing for the appellant that the Tribunal, by taking into consideration of the nature of injuries sustained by the respondent/claimant at the time of the accident, ought not to have taken the entire disability at 50% as per Ex.C.1/Disability Certificate; that fixed excessive sum of Rs.12,000/- as notional monthly income and awarded compensation by applying the multiplier method, this Court, so as to find out veracity of the disability sustained by the respondent/claimant at the time of the accident vide order, dated 19.02.2024, directed the respondent/claimant to appear before this Court on 01.02.2024.

9.2 Accordingly, the respondent/claimant appeared before this Court today (01.02.2024) and it is apparent that due to the disability sustained at



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the time of the accident, the respondent/claimant's right hand has become totally nonfunctional and with such disability, it is difficult for him to do even his normal day-today work, and hence, this Court is of the opinion that the functional disability taken by the Tribunal at 50% cannot be questioned, infact, it should have been even more. Hence, this Court does not find any error in the award passed by the Tribunal towards 'Disability' at a sum of Rs.7,92,000/- by adopting multiplier method and the same stands confirmed. Even the award passed by the Tribunal under other heads are just and fair and the same stands confirmed.

10. In the result, the Civil Miscellaneous Appeal filed by the appellant/Transport Corporation is dismissed. The appellant/Transport Corporation is directed to deposit the entire award amount equally along with interest at the rate of 7.5 % p.a. and costs before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment, after deducting the amount already deposited, if any. On such deposit being made by the appellant/Transport Corporation, the Tribunal shall transfer the amount directly to the claimant's respective bank account through RTGS



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within a period of three weeks thereon, upon which, the respondent/claimant is entitled to withdraw the entire award amount, less the amount already withdrawn, if any, by making necessary application before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

01.02.2024

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To

The Chief Judicial Magistrate,
Motor Accident Claims Tribunal, Vellore.



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Krishnan Ramasamy,J.,
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