



C.M.A(MD) Nos.524 and 525 of 2013

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Dated: 23.02.2024

CORAM:

THE HON'BLE MR.JUSTICE **P. DHANABAL**

C.M.A(MD) Nos.524 and 525 of 2013

C.M.A.(MD)No.525 of 2013

D.Gangadharan(Died)

..Appellant/claimant

2. Shyamala

3. Minor. Neha

4. Minor.Prarthana

(3 and 4 appellants are minors represented by their mother and natural guardian-2nd appellant herein)

Appellants 2 to 4 are brought on record as LRs of the deceased sole appellant vide court order dated 11.01.2024 made in CMP(MD) Nos.7047 to 7049 of 2020 in CMA(MD) Nos.525 of 2013)

.VS.

The Managing Director

Tamil Nadu State Transport Corporation Ltd.,

Kumbakonam Division II

Periyamelaguparai

Trichy

.. Respondent/Respondents

Prayer : This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award dated 07.08.2006 made in MCOP No.2570 of 2003 on the file of the III Additional Sub Judge cum Motor Accident Claims Tribunal at Tiruchirapalli .

For Appellant : M/s.J.Maria Roseline

For Respondent : Mr.P.Thilak Kumar



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C.M.A.(MD)No.524 of 2013

K.Ashok Kumar

..Appellant/claimant

.vs.

The Managing Director
Tamil Nadu State Transport Corporation Ltd.,
Kumbakonam Division II
Periyamelaguparai
Trichy

.. Respondent/Respondents

Prayer : This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award dated 07.08.2006 made in MCOP No.2655 of 2003 on the file of the III Additional Sub Judge cum Motor Accident Claims Tribunal at Tiruchirapalli .

For Appellant : M/s.J.Maria Roseline

For Respondent : Mr.P.Thilak Kumar

COMMON JUDGMENT

These Civil Miscellaneous Appeals have been filed as against the common order passed in M.C.O.P.Nos. 2507 and 2655 of 2003 on the file of the Motor Accident Claims Tribunal, III Additional Sub Judge cum Motor Accident Claims Tribunal at Tiruchirapalli , wherein the petitioners in these appeals have filed claim petitions before the Tribunal. As against the order passed by the Tribunal the appellants have preferred these appeals.



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2. The Tribunal has awarded a sum of Rs.1,20,805/- in M.C.O.P.No.2570 of 2003 and awarded a sum of Rs. 58,500/- in M.C.O.P. No.2655 of 2003 and directed the respondent/TNSTC to pay the said amount along with interest @ 7.5% per annum. As against the award passed by the Tribunal the present appeals have been preferred by the appellant/petitioners.

3. For the sake of convenience and brevity, the parties herein after will be referred to as per their status/ranking in the Tribunal.

4. The brief fact petition averments before the Tribunal are as follows:

On 19.06.2003 at about 5.15 pm., when the petitioners were proceeding in a two wheeler bearing Reg. No.TN 45 S 8425, at that time the vehicle which came in the opposite direction bearing Reg. No. TN 45 N 1230 was driven by its driver in a rash and negligent manner and dashed against the motor cycle, thereby the petitioner in MCOP No.2655 of 2003 sustained head injuries and he was permanently disabled, thereby claims a sum of Rs.2,00,000/- towards compensation. The petitioner in MCOP 2570 of 2003 sustained injuries on his left leg and he also sustained



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grievous injuries and he was permanently disabled, thereby he claims a sum of Rs.3,00,000/- towards compensation. The accident was took place due to the negligence on the part of the driver of the bus/respondent.

5. The brief averments of the counter filed by the respondents in both petitions are as follows:

The accident took place due to the negligence on the part of the motor cyclist and not due to the negligence on the part of the driver of the bus. Therefore the respondent is not liable to pay any compensation, hence the petition is liable to be dismissed.

6. Both the petitions were heard together before the Tribunal and common order was passed. Before the Tribunal on the side of the petitioners they have examined P.W.1 to P.W.4 and marked Exhibits Ex.P.1 to P.9. On the side of the respondents they have examined R.W.1 and no documents were marked.

7. After analyzing the evidence adduced on either side, The Tribunal has awarded a sum Rs.1,20,805/- in M.C.O.P.No.2570 of 2003 and awarded a sum of Rs. 58,500/- in M.C.O.P. No.2655 of 2003 and directed the respondent/TNSTC to pay the said amount



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along with interest @ 7.5% per annum from the date of petition till the realization of the amount. Aggrieved by the above said order the present appeals have been filed by the petitioners on the ground of inadequacy of the compensation

8. The learned counsel appearing for the appellants would contend that the accident occurred due to the negligence on the part of the driver of the bus. The petitioners have proved the negligence before the Tribunal by examining the witnesses and there is no appeal preferred by the respondent/Corporation on the negligence aspect. Therefore the findings of the Tribunal is final in respect of negligence. These appeals have been filed only on the quantum of amount. The petitioner in MCOP No. 2570 of 2003 sustained grievous injuries and his permanent disability is 44% but the Tribunal only awarded meagre amount of Rs.1,20,805/-. In MCOP No.2655 of 2003 the petitioner sustained grievous injuries and his permanent disability is 29% but only awarded a sum of Rs.58,500/- and the same is too meagre, therefore the award passed by the Tribunal is liable to be enhanced.

9. On the side of the respondent, none appeared.



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10. This Court heard the petitioner side and upon perusing the documents available including the common order of the Tribunal, framed the following point for determinations in these appeal:

i) Whether the appeal in CMA(MD) No. 524 of 2013 is liable to be allowed or not?

ii) Whether the appeal in CMA(MD) No. 525 of 2013 is liable to be allowed or not?

11. In this case, there is no dispute in respect of negligence and the Tribunal also fixed the negligence on the part of the driver of the bus and no appeal has been filed by the respondent, thereby the findings of the Tribunal is final in respect of negligence. The petitioner in MCOP No. 2570 of 2003 had sustained grievous injuries and suffered 44% permanent disability and the Tribunal has awarded a sum of Rs.66,000/- towards permanent disability, Rs. 10,000/- towards pain and sufferings, Rs.37,805/- towards medical expenses, Rs.2000/- towards transport expenses, Rs.30000/- for loss of income during the treatment period and Rs.2000/- for extra nourishment and awarded a sum of Rs.1,20,805/-



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12. Considering the cost of living and nature of injuries sustained the amount awarded by the Tribunal is too low and the same is not a just and fair compensation.

13. Considering the nature of injuries sustained by the injured petitioner, the petitioner in MCOP No. 2570 of 2003 is entitled to compensation as follows:

1.	44% permanent disability	Rs.88,000/-
2.	Pain and sufferings	Rs.25,000/-
3.	Transport expenses	Rs.5,000/-
4.	Loss of income	Rs.5,000/-
5.	Extra nourishment	Rs.5,000/-
6.	Medical Bills	Rs.37,805/-
	Total	Rs.1,65,805/-

14. Hence the petitioner is entitled in total a sum of Rs.1,65,805/- rounded to Rs.1,70,000/- towards compensation.

15. The petitioner in MCOP No. 2655 of 2003 had sustained grievous injuries and suffered 29% permanent disability and the Tribunal has awarded a sum of Rs.43,500/- towards permanent disability, Rs.10,000/- towards pain and sufferings, Rs.3000/-



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towards loss of income during the treatment period and transport expenses, Rs.2000/- for extra nourishment and awarded a total sum of Rs.58,500/-

16. Considering the cost of living and nature of injuries sustained the amount awarded by the Tribunal is too low and the same is not a just and fair compensation.

17. Considering the nature of injuries sustained by the injured petitioner, the petitioner in MCOP No. 2655 of 2003 is entitled to compensation as follows:

1.	29% permanent disability	Rs.58,000/-
2.	Pain and sufferings	Rs.25,000/-
3.	Transport expenses	Rs.5,000/-
4.	Loss of income	Rs.5,000/-
5.	Extra nourishment	Rs.5,000/-
	Total	Rs.98,000/-

18. Hence the petitioner is entitled in total a sum of Rs. 98,000/- rounded to Rs.1,00,000/- towards compensation.

19. In the result:

i) CMA(MD) No.524 of 2013 is partly allowed and the award passed by the Tribunal in MCOP No.2570 of 2003 is modified



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to the effect that the petitioner is entitled for a sum of Rs. 1,70,000/- towards compensation and respondent is directed to deposit the amount awarded by this Court with interest @ 7.5 % per annum within a period of two months from the date of this judgment. During pendency of the appeal the first appellant died and his legal heirs were impleaded as appellants 2 to 4. The second appellant is entitled to a sum of Rs.70,000/- and the appellants 3 and 4 each are entitled to Rs.50,000/- with proportionate interest and cost. On the deposit being made the petitioners are at liberty to withdraw the same by filing appropriate petition before the Tribunal and the award amount of the minor third and fourth appellants is ordered to be deposited in to a nationalized bank for three years or till the date of attaining majority whichever is earlier. The second appellant is at liberty to receive the interest of the deposit amount. The appellant is directed to pay the additional court fee for the enhanced award amount.

ii) CMA(MD) No.525 of 2013 is partly allowed and the award passed by the Tribunal in MCOP NO.2655 of 2003 is modified to the effect that the petitioners are entitled for a sum of Rs. 1,00,000/- towards compensation and respondent is directed to deposit the amount awarded by this Court with interest @ 7.5 % per



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annum within a period of two months from the date of this judgment and on the deposit being made the petitioner is at liberty to withdraw the same by filing appropriate petition before the Tribunal. The appellant is directed to pay the additional court fee for the enhanced award amount. No costs.

23.02.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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To:

1. The Motor Accident Claims Tribunal /
III Additional Sub Judge, Tiruchirapalli .
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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P. DHANABAL,J.

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