



C.M.A.(MD) No.987 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) No.987 of 2024

and

C.M.P.(MD)No.10363 of 2024

The General Manager.
Tamil Nadu State Transport Corporation Ltd.,
Office at Vannarpettai,
Tirunelveli – 627 003.

... Appellant

Vs.

K.Murugan.

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, 1988, to set aside the judgment and decree dated 31.08.2023 M.C.O.P.No.1469 of 2018 on the file of the Motor Accidents Claims Tribunal/Special Sub Court, Tirunelveli.

For Appellant	: Mr.S.Micheal Heldon Kumar
For Respondent	: Mr.V.Sasikumar

J U D G M E N T

The instant appeal has been filed challenging the finding on



C.M.A.(MD) No.987 of 2024

negligence and the quantum of compensation awarded by the Tribunal.

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2. The respondent filed a claim petition stating that on 24.04.2018 at about 7.00 p.m., while he was riding a motorcycle bearing registration No.TN-72-AJ-7819, a bus belonging to the appellant/Transport Corporation came in a rash and negligent manner and dashed against the motorcycle from the behind, as a result of which, he sustained grievous injuries.

3. The appellant/Transport Corporation, filed a counter denying the averments made in the claim petition and stated that the accident took place only due to the negligence of the respondent herein and that in any case, the compensation claimed was excessive.

4. Before the Tribunal, the respondent/claimant examined himself as P.W.1 and marked Exs.P1 to P7. The appellant/Transport Corporation neither examined any witnesses nor marked any documents. The Disability Certificate issued by the Medical Board was marked as a Court Document in Ex.C1.



C.M.A.(MD) No.987 of 2024

5. The Tribunal, holding that the accident took place only due to the negligence of the bus driver, awarded the compensation of Rs.1,84,000/- to the respondent herein.

6. The learned counsel for the appellant/Transport Corporation submitted that the finding on negligence is erroneous and that the compensation awarded by the Tribunal is excessive inasmuch as the compensation for loss of earning was computed for six months, in the absence of any evidence and that the award of compensation under the head 'Disability' is excessive.

7. Mr.V.Sasi Kumar, learned counsel, who takes notice for the respondent and undertakes to file vakalat, submitted that the award of compensation is just and reasonable.

8. The points for consideration in the instant appeal are as follows:

'a. Whether the finding on negligence by the Tribunal is justified?

b. Whether the compensation awarded by the Tribunal is just and reasonable?'



C.M.A.(MD) No.987 of 2024

9. As regards the first question, it is seen that the appellant/Transport Corporation has not examined any witnesses. The respondent/claimant examined himself as P.W.1 and marked Ex.P1-FIR to corroborate his version, as regards the manner of accident. In the absence of any evidence let in on the side of the appellant/Transport Corporation, this Court is of the view that the Tribunal was right in holding that the bus driver was guilty of negligence, based on the evidence of P.W.1.

10. As regards the quantum of compensation, it is seen that the respondent/claimant had filed the Disability Certificate as Ex.C1 issued by the Medical Board. As per the said Certificate, the claimant had suffered 15% of disability. The accident took place in the year 2018. Hence, the award of compensation of Rs.5,000/- for the percentage of the disability is in accordance with law.

11. As regards the compensation under the head 'Loss of income', the claimant/respondent had examined as P.W.1 and stated that he was working as Mason and he could not pursue his job for nearly six months. In the absence of any evidence to the contrary, this Court is of the view that the award of compensation under the head 'Loss of income' at



C.M.A.(MD) No.987 of 2024

Rs.54,000/- for a period of six months (Rs.9,000/- p.m.) is justifiable.

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12. The compensation under the other heads such as 'Pain and sufferings', 'Loss of Convenience', 'Transport Expenses', 'Attendant Charges' and 'Extra Nourishment' is also reasonable and hence, confirmed. Therefore, the award of the Tribunal is just and reasonable and hence, confirmed.

13. The appellant/Transport Corporation is directed to deposit the compensation of Rs.1,84,000/-/- (Rupees One Lakh Eighty Four Thousand only) together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of realization (excluding the period of dismissal for default if any) and costs, less the amount already deposited, if any, within a period of six (6) weeks from the date of receipt of a copy of this order.

14. On such deposit, the respondent/claimant is entitled to withdraw the aforesaid amount together with proportionate interest and costs, less the amount already withdrawn, if any, by filing an appropriate application before the Tribunal.



C.M.A.(MD) No.987 of 2024

WEB COPY 15. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

02.09.2024

Index: Yes/ No
NCC: Yes / No
Speaking Order / Non-Speaking Order
apd

To:

1. Motor Accidents Claims Tribunal/Special Sub Court,
Tirunelveli.

2.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A.(MD) No.987 of 2024

SUNDER MOHAN, J.

apd

C.M.A.(MD) No.987 of 2024

02.09.2024