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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.02.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)Nos.150 & 237 of 2022

Subbiah ... Appellant in C.M.A.(MD)No.150/2022

The Managing Director,
Tamil Nadu State Transport Corporation,
(Kumbakonam) Pudukkottai. ... Appellant in C.M.A.(MD)No.237/2022

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation,
(Kumbakonam), Pudukkottai. : Respondent in C.M.A.(MD)No.150/2022

Subbiah : Respondent in C.M.A.(MD)No.237/2022

PRAYER in C.M.A.(MD)No.150/2022: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree made in M.C.O.P.No.123 of 2014 by the Motor Accident Cases Claims Tribunal (Principal Sub-Court), Pudukkottai dated 20.12.2019 and enhance the award amount.



PRAYER in C.M.A.(MD)No.237/2022: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the impugned award passed in M.C.O.P.No.123 of 2014, dated 20.12.2019, on the file of Motor Accident Cases Claims Tribunal (Principal Sub Judge), Pudukkottai.

C.M.A.(MD)No.150/2022:

For Appellant : Mr.D.Venkatesh

For Respondent : Mr.P.M.Vishnuvarthanan

C.M.A.(MD)No.237/2022:

For Appellant : Mr.P.M.Vishnuvarthanan

For Respondent : Mr.D.Venkatesh

COMMON JUDGEMENT

C.M.A.(MD)No.150 of 2022 has been filed by the claimant to enhance the award amount passed by the Motor Accident Cases Claims Tribunal (Principal Sub-Court), Pudukkottai dated 20.12.2019.

C.M.A.(MD)No.237 of 2022 has been filed by the Corporation to set aside the impugned award passed in M.C.O.P.No.123 of 2014, dated 20.12.2019, on the file of Motor Accident Cases Claims Tribunal (Principal Sub Judge), Pudukkottai.



2. These Civil Miscellaneous Appeals are filed by the claimant as well as the Transport Corporation.

3. It is a case of injury. The injured person is an agriculturist. The accident occurred, when the transport corporation bus was turning inside the bus stand. The injured person was standing in the bus stand for boarding bus. Unfortunately, the bus came near the injured with fear he lost his control and fell on the back wheel of the bus. Due to the accident, the injured sustained injury on his left leg and the leg was amputated.

4. The contention of the claimant is that it is 100% functional disability. However, the Learned counsel appearing for the Transport Corporation submitted that the disability is 30% and hence, the Tribunal ought not to have taken multiplier method. Since it is a case of amputation, this Court is not inclined to accept the contention of the Transport Corporation. The tribunal has rightly adopted the multiplier method. However, the Tribunal has taken notional income of Rs.2,000/- for agriculturist. At the time of accident, the injured was aged about 58 years and he was an agriculturalist. Therefore, this Court is inclined to fix notional salary of Rs.5,000/- and future prospectus of 10%. Therefore, the salary comes to Rs.5,500/-.



7. Accordingly, the claimant is entitled for compensation as follows:

S. No.	Description	Amount awarded by		Award confirmed / enhanced / granted
		Tribunal	this Court	
1.	For Loss of income	Rs.1,85,760/-	Rs. 5,10,840/-	Enhanced
2.	For Pain and suffering	Rs. 5,000/-	Rs. 5,000/-	confirmed
3.	For Medical expenses	Rs.13,18,916/-	Rs. 13,18,916/-	confirmed
Total		Rs. 15,09,676/-	Rs. 18,34,756/-	

8. Accordingly, the Transport Corporation is directed to deposit to the tune of Rs.18,34,756/-with interest at 7.5% p.a., from the date of claim



petition till the date of realization along with Costs within a period of Eight weeks from the date of receipt of a copy of this Judgment, less the amount if already deposited. On such deposit being made, the claimant is permitted to withdraw the same, less the amount already withdrawn by him, if any, by filing appropriate application before the Tribunal.

9. With these modifications, this Civil Miscellaneous Appeals are partly allowed. No Costs.

27.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
KSA

To

1.The Motor Accident Cases Claims Tribunal/
(Principal Sub-Court), Pudukkottai

2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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**Common Judgment made in
C.M.A(MD)Nos.150 & 237 of 2022**

27.02.2024