



CMA.(MD)No.280 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 06/06/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGO VAN**

CMA (MD) No.280 of 2022

Chandru @ Chandrasekar : Appellant/Petitioner

Vs.

1.Rajini Baskar
2.The Divisional Manager,
The Oriental Insurance Company Limited,
Lakshmi Arcade,
Trichy Road,
Thanjavur.

3.The Managing Director,
Tamilnadu State Transport Corporation,
New Railway Station Road,
Kumbakonam. : Respondents/Respondents

PRAYER:-Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, to enhance the award amount in MCOP No.1512 of 2019 on the file of the Motor Accident Claims Tribunal/Special Subordinate Judge, Thanjavur, dated 16/08/2021.

For Appellant : Mr.N.Tamilmani

For 1st Respondent : No appearance

For 2nd Respondent : Mr.A.Ilango

For 3rd Respondent : Mr.A.V.K.Krishnakanth



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JUDGMENT

This Civil Miscellaneous Appeal is filed seeking enhancement of the award amount passed in MCOP No.1512 of 2019 by the Motor Accident Claims Tribunal/Special Subordinate Judge, Thanjavur, dated 16/08/2021.

2.The facts in brief:-

On 15/06/2019 at about 01.30 am, the petitioner was travelling as a passenger in the third respondent Corporation Bus bearing registration No.TN-45-N-3490 from Coimbatore to his village. When the Bus was nearing Kangeyam, the first respondent Bus bearing registration No.TN-68-B-4444 was drive by its driver in a rash and negligent manner from northern direction and dashed against the Corporation Bus. In the accident, the petitioner suffered grievous injuries in his lower and upper jaw, lost 6 teeth.

3.A case in Crime No.315 of 2019 was registered against the first respondent vehicle driver. Seeking compensation amount of Rs.15,00,000/-, the petition was filed.

4.It was resisted by the 2nd respondent Insurance Company that the driver of the 3rd respondent Bus driver



suddenly crossed the road in a rash and negligent manner and dashed against the first respondent vehicle. So, the 2nd respondent is not liable to pay the compensation.

5.The 3rd respondent namely Tamil Nadu State Transport Corporation contended that only because of the first respondent Bus driver, the occurrence took place. So, the case was registered against him by the Kangeyam Police Station. So, they are not responsible.

6.Before the Tribunal, on the side of the petitioner, 2 witnesses examined and 10 documents marked. On the side of the respondents, no oral or documentary evidence was adduced.

7.At the conclusion of the trial process, the Tribunal found that because of the rash and negligent on the part of the first respondent Bus driver, the occurrence took place. So, it fixed the liability upon the 2nd respondent Insurance Company to pay the compensation.

8.Regarding the compensation, it fixed Rs.54,000/- on the basis of the certificate issued by the Doctor (PW2). The disability was assessed at 20%.



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9. Aggrieved over the quantum of compensation, this appeal is preferred by the claimant.

10. Heard both sides.

11. The learned counsel appearing for the appellant would submit that the Tribunal has omitted to award compensation for the disability suffered by the claimant. He lost 6 teeth and in spite of the fact, the disability was assessed at 20%. The Tribunal did not take notice of the same.

12. The learned counsel appearing for the second respondent Insurance Company would submit that even though, the claimant was not referred to the Medical Board constituted by the Government to assess the disability, the evidence of PW2 does indicate that the petitioner suffered loss of 6 teeth. According to him, reasonable compensation may be fixed by this court.

13. When there is loss of 6 teeth, the Tribunal ought to have awarded the compensation at least at the rate of Rs.5,000/- per teeth. Since there is a loss of 6 teeth, the appellant is entitled for the compensation amount of **Rs.30,000/-** for the loss of teeth. The claimant's loss of



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income during the treatment period was fixed at Rs. 1,000/-. The reasonable amount may be fixed at **Rs.5,000/-** for the loss of income during the treatment period, since he lost 6 teeth, he would have underwent treatment. He was inpatient for three days. At least, he would have undergone treatment without attending the job. So, it may be reasonably fixed at Rs.5,000/-. Loss of amenities was fixed at Rs.25,000/-. It is maintained. Regarding the attendant charges, it was fixed Rs.1,000/-. He was in the hospital for more than 3 days. It may be reasonably fixed and hence, Rs.5,000/- is fixed towards attending charges. The conveyance charges is fixed to Rs.5,000/- and special diet is also fixed at Rs.5,000/-.

14.The total compensation awarded by the Tribunal is modified as under:-

Head	Award of the Tribunal	Award of this Court
Loss of teeth	-	Rs. 30,000/-
Loss of Income during treatment	Rs. 1,000/-	Rs. 5,000/-
Loss of Amenities	Rs. 25,000/-	Rs. 25,000/-
Attendant Charges	Rs. 1,000/-	Rs. 5,000/-
Pain and Sufferings	Rs. 25,000/-	Rs. 25,000/-
Conveyance Charges	Rs. 1,000/-	Rs. 5,000/-
Special diet	Rs. 1,000/-	Rs. 5,000/-
Total	Rs. 54,000/-	Rs.1,00,000/-



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15.Regarding the negligent aspect, no argument was advanced on either side. Since it is the claimant appeal, no cross appeal was also filed by the Insurance Company. So that portion of the order is confirmed.

16.In the result, this Civil Miscellaneous Appeal is partly allowed. The award of the Tribunal is modified to **Rs.1,00,000/-**. The 2nd respondent Insurance Company is directed to deposit the modified amount along with 7.5% per annum from the date of of this order for the enhanced amount. The claimant is permitted to withdraw the entire amount with accrued interest, less the amount already deposited. No costs.

06/06/2024

Index:Yes/No
Internet:Yes/No
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To,

- 1.The Motor Accident Claims Tribunal/
Special Subordinate Judge,
Thanjavur.
- 2.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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