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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.433 of 2022

and

C.M.P(MD)No.3853 of 2022

Tamilnadu State Transport Corporation,
Represented by its Managing Director,
Having Office at Periyamilaguparai,
Trichy.

... Appellant

Vs.

Murugaiyan

... Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to set aside the impugned award passed in M.C.O.P No.101 of 2015 dated 09.09.2019 on the file of the Motor Accident Claims Tribunal/Principal Sub Court, Karur.

For Appellants : Mr.P.M.Vishnuvarathan

For Respondent : No appearance

JUDGEMENT

The Transport Corporation has preferred this appeal to set aside the award passed in M.C.O.P No.101 of 2015 dated 09.09.2019 on the file of the Motor Accident Claims Tribunal/Principal Sub Court, Karur.



2. It is a case of injury. The injured was working as conductor in the Transport Corporation. In the accident the claimant had suffered fracture. According to the claimant, the accident occurred on 22.10.2014 and he was treated as inpatient until 30.10.2014. Again, he was admitted in hospital on the same date for further treatment. On 24.12.2014, again, he was admitted for surgery for fixing plates and the same was removed in the year 2016. Initially he was admitted for three months, subsequently, against he was hospitalised for three months. After the treatment the injured had joined the service and hence there is no loss of future income, but the Tribunal had granted loss of future income.

3. After hearing the arguments, this Court is of the considered opinion that the injured has no loss future income since the injured is an employee in the transport corporation and his future prospectus would not be affected. Hence, this Court is of the considered opinion that granting a sum of Rs.2,35,528/- as loss of future prospectus is absolutely erroneous. Therefore, this Court is not inclined to grant compensation under the head of future prospectus.



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4. The next contention of the appellant is that the for attendant charges the Tribunal has granted a sum of Rs.50,000/- the same is excessive, therefore this Court is inclined to reduce the same as Rs.25,000/-.

5. It is seen that the accident occurred when the offending lorry was parked without any indication or lights, that too during night hours. Hence, the driver of the Transport Corporation bus could not locate the lorry at the appropriate time, hence, the accident occurred. In such circumstances, the claimants ought to have impleaded the lorry for fixing contributory negligence. And also ought to have impleaded the insurance company of the lorry, so that the compensation shall be fixed on the lorry or the insurance company. If the claimants have not impleaded the lorry or the insurance company as stated above, then the Transport Corporation ought to take steps to implead the lorry or the insurance company. Therefore, this Court is of the considered opinion that either the Tribunal ought to have direct to implead the necessary parties, if not the transport corporation ought to have filed petition to implead the owner of the lorry as a party or the insurance company as party. In the present case even after filing of this appeal, the transport corporation failed to file any



petition to implead the owner of the lorry or insurance company of the lorry.

Hence in the present case relief of contributory negligence cannot be granted.

6. Accordingly, the claimants are entitled for compensation as follows:

S. No.	Description	Amount awarded by		Award confirmed / enhanced / granted
		Tribunal	this Court	
1.	For disability	Rs.1,20,000/-	Rs.1,20,000/-	confirmed
2.	For pain and suffering	Rs. 50,000/-	Rs. 50,000/-	confirmed
3.	For loss of amenities	Rs. 50,000/-	Rs. 50,000/-	confirmed
4.	For extra nourishment	Rs. 25,000/-	Rs. 25,000/-	confirmed
5.	For attendar charges	Rs. 50,000/-	Rs. 25,000/-	Reduced
6.	For medical expenses	Rs.2,94,566.10/-	Rs. 2,94,566/-	confirmed
7.	For transport expenses	Rs. 20,000/-	Rs. 20,000/-	confirmed
8.	For loss of future income	Rs,2,35,528/-	--	Deleted
Total		Rs.8,45,094.10	Rs.5,84,566/-	

7. Accordingly, this Civil Miscellaneous Appeal is partly allowed.

The transport corporation is directed to deposit the compensation amount of Rs.5,84,566/-with interest 7.5% along with costs, within a period of 12 weeks from the date of receipt of a copy of this Judgment, less the amount already deposited, if any. 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. No Costs. Consequently, connected miscellaneous petition is closed.

06.03.2024

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

1. The Motor Accidents Claims Tribunal/
Principal Sub Court, Karur.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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**Order made in
C.M.A(MD)No.433 of 2022**

06.03.2024