



C.M.A(MD)No.461 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.461 of 2022

and

C.M.P.(MD)No.4082 of 2022

The Managing Director,
M/s. Tamil Nadu State Transport Corporation,
Kumbakonam Limited,
Kumbakonam – 612 001.

... Appellant

Vs.

1.Michel Raj
2.P.Santhakumari

3.The Divisional Manager,
The New India Assurance Company Limited,
No. 41-B, Victoria Street,
Tuticorin – 628 001.
Policy No. 72140031120100000264.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the award, dated 17.03.2021, made in M.C.O.P.No. 347 of 2013, on the file of the Motor Accident Claims Tribunal / III Additional Sub Court, Trichirappalli.

For Appellant	: Mr.P.Prabhakaran
For R1	: Mr. M.Karthick
For R2	: No appearance
For R3	: Mr. M.S.Suresh Kumar



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C.M.A(MD)No.461 of 2022

JUDGMENT

The Civil Miscellaneous Appeal has been preferred by the Transport Corporation.

2.It is the case of injury. The accident occurred at about 04.50 a.m. and the claimant had sustained multiple grievous injuries all over his body and fracture on his right leg and he underwent treatment. The contention of the Transport Corporation is that the bus was travelling in the National Highway and a lorry loaded with iron rod protruding outside was travelling before the bus. The lorry which was moving in front of the bus has turned to the left side in order to take the service road without any indication. The bus which was travelling on the National highway hit the lorry and the iron rods penetrated into the bus and caused injury to the persons who were travelling in the bus. The said contention was vehemently opposed by the claimant as well as the Insurance Company. The contention of the Insurance Company is that absolutely there is no pleading by the Transport Corporation that the rods were protruding.

3. In any Highways, whenever a vehicle is trying to slow down, it ought to



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be indicated that it is slowing down so that the vehicles which are travelling in high speed would get an indication. Further Highways are meant for the vehicles to move fast. Therefore, vehicle which is slowing down the speed will also be responsible for any accident. Moreover, the accident occurred in earlier hours at 04.50.a.m. In such circumstances, the lorry also should have taken precaution before turning to the left. Therefore, this Court is of the considered opinion that the lorry ought to have indicated while slowing down. Therefore, the plea of the Transport Corporation that entire liability cannot be fixed on them and contributory negligence ought to be fixed on the lorry also is acceptable. Therefore, this Court is of the considered opinion that 10% contributory negligence ought to be fixed on the Insurance Company as well.

4. As far as pain and sufferings is concerned, the Tribunal has granted Rs. 1,00,000/-. Since the injury is on the leg wherein the bones were crashed, this Court is not inclined to interfere with the compensation granted by the Tribunal under the head of pain and sufferings. As far as partial permanent disability to the tune of 40% is concerned, the Tribunal has taken the multiplier method which is incorrect. Therefore, this Court is fixing the compensation under the head of partial permanent disability as Rs.2,00,000/- (Rs.5,000/- * 40). Therefore, the



compensation granted under head of partial permanent disability is reduced from Rs.6,30,000/- to Rs.2,00,000/- by this Court.

5. As far as medical expenses are concerned, the claimant himself has claimed only Rs.4,00,000/-. The Tribunal has considered the same and has fixed Rs.9,50,186/- for medical expenses without any medical bills. The relevant portion of the order is extracted hereunder:

“21) The petitioner has produced Ex.P5, medical bills claiming a sum of Rs. 9,99,394/- towards medical expenses. Upon perusal of Ex.P5, medical bills, the bill for sum of Rs. 49,208 was shown as hospital bill and the remaining bills were produced to show for purchasing of medicine. However, in the medicine bills, there is no seal affixed and the bills were shown as copy of cash bill. The petitioner has not produced the original cash bill for the purchase(ment) of medicine. Moreover, she has not explained anything for non production of the original bills. Therefore, this court is of the opinion that the petitioner is entitled to hospital bill for sum of Rs.9,50,186/- towards Medical Expenses. Accordingly, a sum of Rs. 3,000/- is awarded towards Cloths and Articles.”

When the Tribunal has come to the conclusion that that bills are produced only to the tune of Rs.49,208/- and the remaining bills are not original, fixing Rs. 9,50,186/- is absolutely erroneous. However the learned Counsel appearing for the



appellant fairly submitted that on perusing the original bills, the amount comes to Rs.3,67,955/-. Therefore, the compensation granted under head of medical expenses is reduced from Rs.9,50,186/- to Rs.3,67,955/- by this Court.

6. The compensation granted by the Tribunal under other heads are confirmed. The Insurance Company is directed to deposit 10% of the total compensation and the Transport Corporation is directed to deposit 90% of the total compensation.

7. The modified compensation granted by this Court is as under:

Sl. No.	Heads	Award granted by Tribunal	Award granted by this Court	Enhanced / Confirmed / Reduced
1.	Pain and Suffering	Rs.1,00,000/-	Rs.1,00,000/-	Confirmed
2.	Extra Nourishment	Rs.15,000/-	Rs.15,000/-	Confirmed
3.	Partial Permanent Disability	Rs.6,30,000/- (Rs.8750/-*12 *15* 40/100)	Rs.2,00,000/- (Rs.5,000/- * 40)	Reduced
4.	Medical Expenses	Rs.9,50,186/-	Rs.3,67,955/-	Reduced
5.	Transport Expenses	Rs.10,000/-	Rs.10,000/-	Confirmed
6.	Attender Expenses	Rs.15,000/-	Rs.15,000/-	Confirmed
7.	Loss of Income	Rs.14,000/-	Rs.14,000/-	Confirmed
8.	Loss of Clothes and Articles	Rs.3,000/-	Rs.3,000/-	Confirmed
	Total	Rs.17,37,186/- rounded of to Rs.17,37,190/-	Rs.7,24,955/- rounded of to Rs.7,24,960/-	Reduced



C.M.A(MD)No.461 of 2022

WEB COPY

Thus, the total compensation granted by the Tribunal to the tune of Rs.17,37,190/- is reduced to Rs.7,24,960/- by this Court. In this total compensation, the appellant Transportation Corporation shall deposit Rs.6,52,464/- with interest and the 3rd respondent Insurance Company shall deposit Rs.72,496/- with interest.

8. The appellant Transport Corporation is directed to deposit Rs.6,52,464/- with interest at the rate of 7.5% per annum and costs to the credit of M.C.O.P., on the file of claims Tribunal, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment. The 3rd respondent Insurance Company is directed to deposit Rs.72,496/- with interest at the rate of 7.5% per annum to the credit of M.C.O.P., on the file of claims Tribunal, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposits, the claimant is permitted to withdraw the same with accrued interests and costs, less the amount already withdrawn by him, if any, by filing appropriate application before the Tribunal.



C.M.A(MD)No.461 of 2022

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9. With the above said directions, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

21.03.2024

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

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To

1.Motor Accident Claims Tribunal /
III Additional Sub Court, Trichirappalli.

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



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C.M.A(MD)No.461 of 2022

S.SRIMATHY, J.

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C.M.A(MD)No.461 of 2022

21.03.2024