



C.M.A(MD)No.535 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 13.06.2024

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THE HONOURABLE MR.JUSTICE G.ILANGO VAN

C.M.A(MD)No.535 of 2022

and

C.M.P(MD)No.4761 of 2022

The Branch Manager,
Tamil Nadu State Transport Corporation,
Karaikudi Taluk,
Sivagangai District.

... Appellant / Respondent

Vs.

Subramanian

... Respondent / Petitioner

PRAYER :-

This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicle Act, 1988, to allow this appeal, set aside the award and decree made in M.C.O.P.No.9 of 2017 dated 28.12.2021, on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate Court, Pudukkottai.

For Appellants : Mr.P.Prabhakaran

For Respondent : Mrs.A.Banumathy



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JUDGMENT

This Civil Miscellaneous Appeal is filed to allow this appeal, set aside the award and decree made in M.C.O.P.No.9 of 2017 dated 28.12.2021, on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate Court, Pudukkottai.

2.Brief substance of the claim petition is as follows:

On 21.05.2015, when the claimant namely Subramanian was riding his two wheeler bearing registration number TN 55 AC 9727 along with the pillion rider namely Murugappan, on the Pudukottai - Thanjavur main road near the occurrence place, the police vehicle bearing registration number TN 63 N 1589 was driven by its driver in a rash and negligent manner and hit him from behind. Both have sustained injuries. Claiming compensation of Rs.30 Lakhs, claim petition was filed. It was resisted by the appellant by filing counter stating that eventhough the vehicle travelled on the road on 23.05.2015, without any incident it was returned to the shed. A case was wrongly registered against the appellant's driver.



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3. Before the Tribunal, on the side of the claimant one witness was examined and five documents were marked and on the side of the appellant, two witnesses were examined and no document was marked. One document was marked as Ex.C1.

4. In the conclusion, the Tribunal found that the occurrence took place because of the rash and negligent driving on the part of the vehicle driver and accordingly fastened liability on the appellant.

5. Regarding the compensation, based upon the medical evidences, it assessed the disability and awarded a compensation amount of Rs.3,58,800/-. Against which, this appeal is preferred by the State Transport Corporation. On the ground that the assessment of disability and the compensation awarded by the Tribunal is on the higher side.

6. Regarding the aspect of negligence, no argument was advanced. The manner of accident may also be taken into consideration. It is a case of hitting from behind. So naturally, the appellant driver must be held



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responsible for the occurrence. So that portion of the Tribunal's finding requires no interference. The claimant suffered multiple fractures. He was admitted as inpatient from 22.05.2013 to 23.05.2013 in Apollo Hospital and the medical bills about Rs.1,33,800/- was also produced. 20% of the partial permanent disability was assessed by the medical board and issued Ex.C1.

7. From the record, it is seen that the injured suffered 20% of the partial permanent disability. Since there was no functional disability, the Tribunal awarded Rs.5000/- per percentage and arrived at Rs.1,00,000/- (5000 x 20) for the partial permanent disability. The medical bills were added. Loss of income for three months was estimated at Rs.15,000/-, transport expenses at Rs.15,000/-, extra nourishment Rs.20,000/-. These require no interference which are correct and reasonable in nature. But the problem lies in making the total. Due to wrong calculation, the award of the Tribunal is liable to be interfered. Therefore, the amended compensation is calculated as under :

Partial permanent disability	-	Rs.1,00,000/-
Medical expenses	-	Rs.1,33,800/-
Loss of income for three months	-	Rs. 15,000/-



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Transport expenses	-	Rs. 15,000/-
Extra nourishment	-	Rs. 20,000/-

Total	-	Rs.2,83,800/-

11. The Civil Miscellaneous Appeal is partly allowed. No costs.

(i) The quantum of compensation awarded by the Tribunal is reduced from Rs.3,58,800/- to **Rs.2,83,800/-(Rupees Two Lakhs Eighty Three Thousand and Eight Hundred only)** which shall carry an interest of 7.5% per annum.

(ii) The appellant / Transport corporation is directed to deposit the compensation amount i.e., Rs.2,83,800/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and with cost to the credit of M.C.O.P.No.9 of 2017 dated 28.12.2021, on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate Court, Pudukkottai, within a period of eight weeks from the date of receipt of a copy of this order.

(iii) On such deposit being made, the respondent / claimant is at liberty to withdraw the entire award amount of Rs.2,83,800/-, after following the due



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process of law, less any amount already received by him. Claimant is not entitled for interest for the default period, if there is any.

(iv) Consequently, connected miscellaneous petition stands closed.

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

- 1.The Motor Accident Claims Tribunal / Chief Judicial Magistrate Court,
Pudukkottai.
- 2.The Section Officer, Vernacular Records,
Madurai Bench of Madras High Court, Madurai.

G.ILANGO VAN, J.



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