



C.M.A.(MD) No.1125 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.09.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) No.1125 of 2016

1.D.Bright Gilbert (died),
2.Caroline Janaki,
3.Benitta,
4.Gnana Amirtham.

... Appellants

Vs.

1.Joseph John Kennedy,
2.The Managing Director,
Tamil Nadu State Transport Corporation,
Division-III,
Ranithottam,
Nagercoil,
Agasteeswaram Taluk, Kanyakumari.

... Respondents

*(A2 to A4 are brought on record as LR's of the deceased
sole appellant vide order dated 29.04.2021
in C.M.P.(MD)No.4229 to 4231 of 2021)*

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 22.01.2014 passed in M.C.O.P.No.78 of 2011 on the file of the Motor Accidents Claims Tribunal/ Special Court for Forest Offences Cases, Nagercoil, Kanyakumari.



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For Appellant : Mrs.A.Elis Chitra Devi

For Respondents : Mr.P.Prabhakaran for R2

J U D G M E N T

The instant appeal has been filed seeking enhancement of the compensation.

2. Since the finding on negligence and the manner of the accident are not under challenge, the facts leading to the filing of the claim petition are unnecessary for the disposal of the instant appeal.

3. The learned counsel for the appellants/claimants submitted that the claimant/first appellant, who died pending disposal of the appeal, had suffered serious injuries, and due to the injuries, there was a shortening of his left leg by 3 cm and he was unable to walk and climb the steps and that the compensation awarded under the head attendant charges and the other heads is meagre and hence, prayed for enhancement.

4. The learned counsel for the second respondent/Transport Corportaion, per contra, submitted that the compensation awarded by the



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Tribunal is more than reasonable and therefore, no interference is called

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5. The only point for consideration in the instant appeal is '*whether the compensation awarded by the Tribunal is just and reasonable?*'

6. It is seen from the records that the Doctor had assessed the disability at 20% as per Ex.P12. Considering the facts and circumstances of the case and the year of the accident, this Court is of the view that a sum of Rs.3,000/- can be awarded per percentage of the disability and hence, the compensation under the head 'Disability' can be enhanced to Rs.60,000/-.

7. Admittedly, the claimant/first appellant was taking treatment as an inpatient in two spells as per the evidence of the Doctor-P.W.2 and the discharge summary was marked as Ex.P6. Therefore, the attendant charges at Rs.1650/- awarded by the Tribunal is meagre and the same can be enhanced to Rs.10,000/-. The compensation awarded under the other heads is just and reasonable. The compensation awarded by the Tribunal is enhanced as follows:



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Sl. No	Description	Amount awarded by the Tribunal	Amount awarded by this Court	Award confirmed, enhanced or granted
1	For gravies injury	Rs. 10,000/-	Rs. 10,000/-	Confirmed
2	Damages of Cloths & Watch	Rs. 1,000/-	Rs. 1,000/-	Confirmed
3	Pain and sufferings	Rs. 25,000/-	Rs. 25,000/-	Confirmed
4	Extra nourishment	Rs. 10,000/-	Rs. 10,000/-	Confirmed
5	Transportation charges	Rs. 5,000/-	Rs. 5,000/-	Confirmed
6	Medical expenditure	Rs.1,05,496.44/-	Rs.1,05,496.44/-	Confirmed
7	Loss of income for 11 days	Rs. 2,365/-	Rs. 2,365/-	Confirmed
8	Loss of income for 5 months	Rs. 32,500/-	Rs. 32,500/-	Confirmed
9	Future treatment	Rs. 25,000/-	Rs. 25,000/-	Confirmed
10	Attendant charges	Rs. 1,650/-	Rs. 10,000/-	Enhanced
11	Disability	Rs. 40,000/-	Rs. 60,000/-	Enhanced
Total		Rs.2,58,011.44/-	Rs.2,86,361.44/-	Enhanced by Rs.28,350/-

8. The second respondent/Transport Corporation is directed to deposit the enhanced compensation amount of Rs.2,86,361.44/- (Rupees Two Lakhs Eighty Six Thousand Three Hundred Sixty one and forty four paise only) together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of realization (excluding the period of dismissal for default if any) and costs, less the amount already



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deposited, if any, within a period of four (4) weeks from the date of receipt of a copy of this order.

9. The appellants 2 to 4 who are the legal heirs of the first appellant are permitted to withdraw the compensation, equally, less the amount already withdrawn, if any, by filing an appropriate application before the Tribunal. The appellants 2 to 4/claimants are directed to pay the necessary Court Fee, if any, on the enhanced amount.

10. In the result, this Civil Miscellaneous Appeal is partly allowed.

No costs.

13.09.2024

Index: Yes/ No
NCC: Yes / No
Speaking Order / Non-Speaking Order
apd

To:

1. The Motor Accidents Claims Tribunal/
Special Court for Forest Offences Cases,
Nagercoil, Kanyakumari.

2.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

apd

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