



*C.M.A.(MD)No.206 of 2015*

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**RESERVED ON : 04.12.2023**

**PRONOUNCED ON : 11.01.2024**

**CORAM:**

**THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**C.M.A.(MD)No.206 of 2015**

**and**

**M.P.(MD)No.1 of 2015**

The Manager,  
United India Insurance Company  
Limited, Salem.

... Appellant / 2<sup>nd</sup> Respondent

Vs.

1.Thiruvalluvan

... 1<sup>st</sup> Respondent / Petitioner

2.K.Ramasamy

... 2<sup>nd</sup> Respondent / 1<sup>st</sup> Respondent

2.The Managing Director,  
Tamil Nadu State Transport  
Corporation Limited,  
Salem.

... 3<sup>rd</sup> Respondent / 3<sup>rd</sup> Respondent

*(R2 exparte in Tribunal : Notice dispensed with)*



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**PRAYER:** Civil Miscellaneous Appeal filed under Order 173 of Motor Vehicles Act, 1988, to set aside the Judgment and decree dated 12.08.2014 passed in M.C.O.P.No.319 of 2000 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Palani.

For Appellant : Mr.J.S.Murali  
For R-1 : Mr.R.Jegadeeswaran  
For R-3 : Mr.K.Sudalayandi  
For R-2 : Exparte

### **JUDGMENT**

This Civil Miscellaneous Appeal has been filed against the Judgment and decree dated 12.08.2014 passed in M.C.O.P.No.319 of 2000 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Palani, by the appellant / Insurance Company challenging the liability as well as the quantum of the award passed by the Tribunal.

2. For the sake of convenience, the parties are referred herein as per their rank before the Trial Court.



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3. The brief facts in a nutshell are as follows:

(i) This is a case of injury. On 01.10.1998 at about 6.15 P.M., while the petitioner along with other co-passengers were travelling in the Rama Vilas bus bearing registration No. TN.27 T 5889 belonging to the 2<sup>nd</sup> respondent from Salem to Namakkal NH-7, main road, near Santhiyur Pirivu Road, it dashed against another vehicle bearing registration No. TN-27-0679 which came from the opposite direction towards Salem. As a result of which, the petitioner and many others were seriously injured and four persons died on the spot. Due to the injuries sustained by the petitioner, he was immediately taken to the Government Hospital, Salem. Due to the serious condition and as per the timely advice of the doctors of the Government Hospital, Salem, he was taken to Dr.Natarajan Clinic, Velur. In the said accident, the petitioner sustained fractures on his both side forehead, right upper arm, both knee joint, right thigh, right hand, left lower arm, both knee joint, right thigh, right hand, left lower arm, left ulna and right side of back and right lower ulna. Because of serious fractures and serious injuries, number of operations were done to him. Hence, the petitioner / claimant has filed a M.C.O.P.No.319 of 2000 for seeking



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compensation for the said injuries sustained by the petitioner before the Motor Accident Claims Tribunal, Subordinate Court, Palani.

(ii) Four issues were framed by the learned Tribunal. Following which four witnesses were examined and Ex.P-1 to Ex.P-18 were marked on the side of the petitioner. One witness was examined and no document was marked on the side of the respondents.

(iii) The 2<sup>nd</sup> respondent had filed a counter refuting the allegations put forth in the claim petition. The 1<sup>st</sup> respondent remained exparte before the Tribunal. On the basis of the oral and documentary evidence and the arguments submitted by the respective parties before the Tribunal, the learned Tribunal had proceeded to conclude that the accident had occurred only due to the rash and negligence of the driver of the 3<sup>rd</sup> respondent's bus. However, the driver of the 1<sup>st</sup> respondent's bus could have avoided the said accident, if he had been a little careful. Hence, the learned Tribunal had concluded by fixing 25% negligence on the part of the driver of the 1<sup>st</sup> respondent's bus and 75% negligence on behalf of the driver of the 3<sup>rd</sup>



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respondent's bus.

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(iv) On the basis of the partial permanent disability certificate issued by one Dr.V.Shanmuga Raja who was examined as P.W-3 and the partial permanent disability certificate which was marked as Ex.P-15, the partial permanent disability was arrived at 28% and the learned Tribunal has fixed Rs.2,000/- (Rupees Two Thousand only) per percentage for partial permanent disability. Hence, the learned Tribunal had proceeded to conclude that the petitioner was entitled to get an amount of Rs.88,889/- (Rupees Eighty Eight Thousand Eight Hundred and Eighty Nine only) as compensation for the injuries sustained in the said accident. The details of the compensation awarded by the learned Tribunal are as follows:

| S.No. | Description                  | Amount       |
|-------|------------------------------|--------------|
| 1.    | Partial Permanent disability | Rs. 56,000/- |
| 2.    | Pain and Sufferings          | Rs. 20,000/- |
| 3.    | Medical Expenses             | Rs. 5,889/-  |
| 4.    | Transport Expenses           | Rs. 2,000/-  |
| 5.    | Nutrition Expenses           | Rs. 5,000/-  |
|       | Total                        | Rs. 88,889/- |

Aggrieved by that award, the appellant Insurance Company / 2<sup>nd</sup>



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respondent has filed the present appeal.

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4. The learned counsel for the appellant/ Insurance Company has submitted that the Tribunal is wrong in fixing the liability and negligence. Therefore, the Insurance Company is not liable to pay any compensation to the claimant. It is further contended that the compensation awarded by the Tribunal is excessive, exorbitant and without any basis and justification. Hence the order passed by the Tribunal is not in accordance with law and the same should be set aside.

5. The learned counsel for the 1<sup>st</sup> respondent claimant has submitted that the Tribunal had considered all the materials and evidence available on record and awarded the compensation which is just, fair and reasonable. Hence the order passed by the Tribunal is in accordance with law and the same has to be confirmed.

6. Heard the learned counsel for the appellant and the learned Counsel for the respondents and perused the materials available on record.



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On the side of the claimant, four witnesses were examined and Ex.P-1 to Ex.P-18 were marked and one witness was examined and no document was marked on the side of the respondents.

7. A careful perusal of the entire award, it is clear that the Tribunal has rightly assessed the oral and documentary evidence and arrived at a just and reasonable compensation. In view of the same, this Court is of the considered view that it is not necessary to interfere with the award passed by the Tribunal. Accordingly, this Civil Miscellaneous Appeal is dismissed. Consequently, connected miscellaneous petition is closed.

8. The appellant is directed to deposit the compensation amount as awarded by the Tribunal with accrued interest and costs to the credit of M.C.O.P.No.319 of 2000 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Palani within a period of eight weeks (8) from the date of receipt of copy of this judgment, less the amount, if any already deposited. On such deposit, the claimant is permitted to withdraw



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the said amount, less the amount, if any already withdrawn, by making necessary application before the Tribunal. No costs.

**11.01.2024**

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

To

The Motor Accident Claims Tribunal,  
Subordinate Court,  
Palani.

Copy to

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



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**L.VICTORIA GOWRI, J.,**

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