



C.M.A(MD)No.287 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **02.07.2024**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.287 of 2018

Murugan

... Appellant/Petitioner

Vs.

1.The Tamil Nadu Transport Corporation Ltd.,
Through its Managing Director,
Virudhunagar.

2.Sethuprakash

3.Iffco-Tokio General Insurance Company Ltd.,
Through its Branch Manager,
KBD Arcade,
No.2, 2nd Floor, 4/1044,
Kovil Main Road,
Karur.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988, to enhance the award amount in M.C.O.P.No.995 of 2014 on the file of the Motor Accident Claims Tribunal, (Special Sub Court), Tirunelveli, dated 08.02.2016.

For Appellant : Mr.T.Selvakumaran

For R1 : Mr.K.Sudalaiyandi

For R2&R3 : Mr.V.Sakthivel



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JUDGMENT

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The present appeal has been filed by the claimant challenging the award in M.C.O.P.No.995 of 2014 on the file of the Motor Accident Claims Tribunal / Special Sub Court, Tirunelveli seeking enhancement of compensation.

2. The injured claimant was travelling as a passenger in a bus owned by the State Transport Corporation. While he was travelling on 29.07.2014, the bus had dashed against the rear side of a lorry, which is owned by the 2nd respondent and insured with the 3rd respondent. The claimant had prayed for a compensation of Rs.10,00,000/-.

3. The tribunal after considering the evidence on record has arrived at a finding that the accident has taken place only due to the rash and negligent driving on the part of the Transport Corporation and mulcted the liability upon them. The tribunal has awarded a sum of Rs. 2,44,000/- towards compensation. Seeking enhancement, the present appeal has been filed by the claimant.



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4. According to the learned counsel appearing for the appellant, Exhibit P.4 – Scan report and Exhibit P.7 – Disability certificate will clearly indicate that the spleen of the claimant had been removed due to the injury sustained by him in the stomach. Therefore, the tribunal ought to have awarded an additional sum of Rs.2,00,000/- for the removal of the spleen. He had relied upon the judgment of the Hon'ble Division Bench of our High Court reported in **2023 1 TN MAC 236 (Arputha Selvan Vs. K.Jesudoss & Another)**, wherein the Hon'ble Division Bench was pleased to award a sum of Rs.2,00,000/- for removal of spleen.

5. The learned counsel appearing for the Transport Corporation had contended that the compensation already awarded by the tribunal is on higher side and the said amount has already been deposited by the Transport Corporation. Therefore, at this length of time, an additional compensation for removal of spleen cannot be awarded.

6. I have carefully considered the submissions made on either side and perused the material records.



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7. A perusal of Exhibit P.4 – Scan report and Exhibit P.7 – Disability certificate clearly indicate that the spleen of the claimant had been removed due to the serious injury sustained by him in the stomach. The Hon'ble Division Bench of our High Court in the judgment cited supra, has awarded a sum of Rs.2,00,000/- towards the disability suffered by a claimant due to the removal of spleen. This Court is inclined to follow the said judgment.

8. In view of the above said deliberations, a sum of Rs.2,00,000/- is awarded as additional compensation towards removal of spleen. The compensation of the tribunal is enhanced from Rs.2,44,000/- (Rupees Two Lakh and Forty Four Thousand only) to Rs.4,44,000/- (Rupees Four Lakh and Forty Four Thousand only). The award amount will carry an interest at the rate of 7.5% from the date of filing of the claim petition. The Transport Corporation is directed to deposit the award amount within a period of twelve (12) weeks from the date of receipt of copy of this order. On such deposit, the claimant is entitled to withdraw the same.



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9. This Civil Miscellaneous Appeal is partly allowed to the extent

as stated above. No costs.

02.07.2024

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

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To

- 1.The Motor Accident Claims Tribunal,
(Special Sub Court),
Tirunelveli.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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Order made in
C.M.A(MD)No.287 of 2018

02.07.2024