



C.M.A.(MD).No.6 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

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C.M.P.(MD).No.36 of 2023

Tamil Nadu State Transport Corporation (Virudhunagar Division),
Through its
Divisional Manager,
Service Road,
Velusamy Nagar,
GT Nagar,
Virudhunagar – 626 001. ... Appellant/Respondent

Vs.

R.Sureshkumar ... Respondent/Petitioner

PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to set aside the judgment and decree dated 28.10.2021 passed in M.C.O.P.No.275 of 2017 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Thoothukudi.

For Appellant : Mr.K.Sudalaiyandi

For Respondents : Mr.P.M.Vishnu Varthanan



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JUDGMENT

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This appeal has been filed to set aside the judgment and decree dated 28.10.2021 passed in M.C.O.P.No.275 of 2017 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Thoothukudi.

2.The facts in brief:

On 08.09.2016 at about 7.45 p.m., the petitioner was standing in Thoothukudi old Bus Stand on the north western side. At that time, the appellant corporation bus bearing registration No.TN 67 N 0675 was driven by its driver in rash and negligent manner, dashed the petitioner. As a result of which, he sustained grievous injuries, was taken to the Thoothukudi Government Medical College Hospital, Thoothukudi and on the next day, he was shifted to Thoothukudi AVM Hospital, Thoothukudi, for continuation of the treatment. He underwent surgery on 17.09.2016, took treatment for more than 40 days as in patient from 09.09.2016 to 31.10.2016. Again he was admitted as inpatient in the very same hospital and underwent another surgery and other follow up treatment.



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3. Because of the accidental injuries, he could not follow the routine life as before. He was working as supplier of water cans to the houses, other establishment and earning not less than Rs.12,000/- per month. So claiming compensation of Rs.15,00,000/-, this petition was filed.

4. That was resisted by the appellant Corporation stating that it is denied that the appellant corporation's driver was responsible for the accident. The claim amount is on the higher side, since he sustained only simple injuries. Other customary denials were also made.

5. Before the Tribunal, on the side of the claimant, two witnesses were examined and six documents were marked. On the side of the respondent no witness was examined and no document was marked. One court exhibit and one witness side exhibit was also marked.

6. Regarding the question of negligence, Tribunal recorded a finding that it occurred due to the rash and negligent driving on the part of the appellant side. With regard to the compensation, the disability was



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fixed as 47% as per the certificate issued by the Board under Ex.C1. It observed that there was no functional disability. So Rs.5,000/- for one percentage of disability was fixed and on that head, it awarded Rs.2,35,000/-.

7. Medical bills were supported by proper authenticated documents. To that other customary amounts were added and total compensation arrived as tabulated below.

<i>Sl. No.</i>	<i>Nature of Head</i>	<i>Award (Rs.)</i>
1.	<i>Damage to Cloth and Articles</i>	500
2.	<i>Transport to Hospitals</i>	5,000
3.	<i>Medicines and Medical Charges</i>	5,40,439
4.	<i>Attendant Charges</i>	11,800
5.	<i>Extra Nourishment</i>	20,000
6.	<i>Pain and sufferings</i>	25,000
7.	<i>Loss of income during treatment</i>	60,000
8.	<i>Loss of Income due to disability</i>	2,35,000
	<i>Total</i>	<i>8,97,739</i>

Challenging the same, this appeal has been preferred by the Transport Corporation.



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8.Regarding the negligent aspect, absolutely, nothing has been brought on record by the appellant to show that only the claimant was under fault. Absolutely, no evidence was let in by the appellant before the Tribunal. So the evidence of the PW1 namely the claimant and the FIR copy under Ex.P1 was taken into account. The manner, in which, the occurrence took place clearly indicates the rash and negligent driving on the part of the appellant's driver. It appears that the claimant was standing in the bus stand. At that time, without noticing the claimant, the appellant's driver drove the bus and dashed him. So the manner also indicates the rash and negligent driving on the part of the appellant's driver. So the finding of the Tribunal has requires no interference.

9.Regarding the compensation amount fixing Rs.5,000/- for a percentage of the disability suffered, which was estimated as 47% by the competent Medical Board, cannot be found fault and is also not on excessive side, considering the nature of injuries suffered by the claimant. Though it is stated that the claimant sustained simple injuries, he was taking treatment as in patient for more than 40 days. So this itself indicates, the grievous nature of the injuries suffered by the claimant. As



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mentioned above, the medical bills alone comes around Rs.5.40 lakhs. So

I am of the considered view that it is not required any modification.

Since he was taking treatment as in patient for more than 40 days, the loss of income during treatment was calculated as Rs.60,000/- taking into account his monthly notional income as Rs.10,000/-. Considering the job nature of the claimant, this amount cannot be treated as excessive. So it requires no interference.

10.Pain and sufferings was awarded as Rs.25,000/-. Considering the grievous nature of the injuries, this amount is also requires no interference. Extra nourishment was fixed as Rs.25,000/-, which also requires no interference. Attendant charges was calculated as Rs.200/- per day. Totally Rs.11,800/- was granted towards attendant charges, which is also appears to be reasonable. Absolutely, I find no reason to interfere into the award portion also.

11.Accordingly, this civil miscellaneous petition stands dismissed.



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No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes / No
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To

- 1.The Chief Judicial Magistrate, Motor Accident Claims Tribunal,
Thoothukudi.
- 2.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGOVAN,J.

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