



C.M.A(MD)No.237 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.07.2024

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.237 of 2017

and

C.M.P(MD)No.2681 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Vannarpettai,
Tirunelveli-3. ... Appellant/1st Respondent

Vs.

1.Chellathurai ... 1st Respondent/Petitioner

2.The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Tiruchy. ... 2nd Respondent/2nd Respondent

*(The second respondent is the sister
Corporation of the appellant and that
notice may be dispensed with)*

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree, dated 16.09.2014 passed in M.C.O.P.No.1078 of 2013 on the file of the Motor Accident Claims Tribunal / Special Sub Court, Tirunelveli.

For Appellant : Mr.P.Prabhakaran



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For R-1 : No appearance
R-2 : Dispensed with

JUDGMENT

The instant appeal has been filed by the State Transport Corporation challenging the negligence and quantum in the award passed by the Motor Accident Claims Tribunal in M.C.O.P.No.1078 of 2013 on the file of the Special Sub Court, Tirunelveli.

2. As per the injured claimant, while he had alighted from the bus to give a way to the other passengers to get down and thereafter, when he attempted to enter into the bus, the driver had moved the bus in a rash and negligent manner. Therefore, he had fallen down, sustained severe injuries in his left leg and multiple injuries all over the body. According to the claimant, he is aged about 37 years and he was a coolie earning a sum of Rs.10,000/- per month.

3. The Transport Corporation has filed a counter contending that the claimant was standing in the front foot board. He had alighted from the bus along with other passengers in order to give them space in the



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foot steps. But he failed to enter into the bus through the front foot steps immediately, since he was talking with other passengers, who had alighted from the bus. The driver and conductor of the bus had no chance to believe the petitioner is continuing his travel in the said bus. Therefore, when they moved the bus from the bus stop, he attempted enter into the bus and thereby, he fell down on account of his own negligence. Therefore, the Transport Corporation prayed for dismissal of the claim petition.

4. The Tribunal after considering the oral and documentary evidence has arrived at a finding that, the accident has taken place only due to the negligence on the part of the driver of the Transport Corporation. The Tribunal has fixed the monthly notional income at Rs.4,500/- and the disability at 50%. The Tribunal has adopted the multiplier method and arrived at a sum of Rs.4,05,000/- towards permanent disability. The Tribunal has further awarded a sum of Rs.40,500/- for loss of income during the period of treatment. The Tribunal has further awarded a sum of Rs.1,00,000/- towards pain and sufferings and another sum of Rs.1,00,000/- towards loss of amenities. The award under these heads are under challenge in the present appeal.



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The appellant has also challenged the rate of interest awarded by the Tribunal.

5. According to the learned Counsel appearing for the appellant, since the claimant himself was talking to the other fellow passengers and had attempted to enter into the bus after it had moved, the entire negligence is on the part of the claimant. He further prayed for reducing the quantum of compensation under the head of loss of income during treatment, pain and sufferings and loss of amenities.

6. Though the claimant has been served and his name is printed in the cause-list, there is no representation either in person or through Counsel.

7. As per the counter of the Transport Corporation, the claimant had alighted from the bus in order to give space to the other passengers to get down and thereafter, he had not entered into the bus quickly and they had moved the bus. However, the claimant has not entered into the bus and he was seeing talking to the other passengers and therefore, the bus was moved by the driver. This contention is not believable.



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Therefore, the Tribunal was right in holding that the driver of the Transport Corporation bus was negligent in immediately moving the vehicle without waiting for the passengers to get into the bus.

8. The Tribunal has fixed the notional monthly income at Rs.4,500/- and adopted a multiplier method considering the fact that, the injured person has suffered severe injuries in his left leg and he is a coolie. Therefore, this Court does not find any reason to interfere in the application of multiplier method.

9. The Tribunal once adopted the multiplier method, ought not to have awarded another sum of Rs.40,500/- towards loss of income during treatment period. The award of Rs.1,00,000/- under the head of pain and suffering and loss of amenities is also on the higher side. Therefore, this Court reduces the same to Rs.50,000/- each for pain and suffering and loss of amenities. The Tribunal has erroneously fixed the rate of interest at 9% instead of 7.5%.

10. In view of the above said deliberations, the award of the Tribunal is re-assessed as follows:



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S.No.	Heads	Compensation
01.	Partial permanent disability	Rs.4,05,000/-
02.	Transport Expenses	Rs.10,000/-
03.	Extra Nourishment	Rs.20,000/-
04.	Attendant Charges	Rs.10,000/-
05.	Pain and sufferings	Rs.50,000/-
06.	Loss of amenities	Rs.50,000/-
07.	Medical Expenses	Rs.1,170/-
	Total	Rs.5,46,170/-

11. The award of the Tribunal is reduced from Rs.6,86,670/- (Rupees Six Lakhs Eighty Six Thousand and Six Seventy only) to **Rs.5,46,170/- (Rupees Five Lakhs Forty Six Thousand and One Seventy only)**. The said amount would carry interest at the rate of 7.5% from the date of the claim petition. The appellant Transport Corporation is directed to deposit the entire award amount within a period of eight (8) weeks from the date of receipt of a copy of this order along with accrued interest and cost if not deposited earlier. On such deposit, the claimant shall be entitled to withdraw the said amount less the amount, if any already withdrawn by filing appropriate application before the Trial Court.



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12. This Civil Miscellaneous Appeal stands partly allowed to the extent as stated above. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

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

To

- 1.The Motor Accident Claims Tribunal /
Special Sub Court,
Tirunelveli.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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BTR

Judgment made in
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