



C.M.A(MD)No.239 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.04.2024**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.239 of 2017

and

C.M.P(MD)No.2683 of 2017

Tamil Nadu State Transport Corporation,
Through its Managing Director,
Office at No.2, Trivandrum Road,
Vannarpettai, Tirunelveli.

... Appellant/Respondent

Vs.

Petchipandi

... Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicle Act, to set aside the award and decre made in M.C.O.P.No.643 of 2013, dated 25.03.2014 on the file of the Motor Accident Claims Tribunal / Special Sub Court, Tirunelveli.

For Appellant : Mr.P.Prabhakaran

For Respondent : No Appearance

JUDGMENT

The Tamil Nadu State Transport Corporation has filed the present appeal challenging the award passed by the Motor Accident Claims Tribunal / Special Sub Court, Tirunelveli in M.C.O.P.No.643 of 2013 primarily on the ground of negligence and quantum.



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2. According to the injured claimant, while he was riding a two wheeler, a bus belonging to the appellant /Transport Corporation driven in a rash and negligence manner came from the opposite direction and dashed against the two wheeler, in which he had sustained grievous injuries. According to the claimant, he is a Mason and he was earning a sum of Rs.15,000/- per month. He had prayed for a sum of Rs. 15,00,000/- towards compensation.

3. The Transport Corporation has filed a counter contending that the injured claimant was in a drunken mood while driving the motor cycle at the relevant point of time. They have further contended that the claimant did not have a valid and effective driving license and the two wheeler was not insured.

4. The tribunal after considering the oral evidence on either side, has arrived at a finding that though the claimant was in a drunken mood, as per the medical records, he was consciously oriented at the time when he was admitted to the hospital. Based upon the said observation, the tribunal arrived at a finding that the accident has not taken place due to the drunken mood of the injured claimant. Further the tribunal has found that the driver of the Transport Corporation was negligent and therefore, the said accident has taken place.



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5. The tribunal fixed the notional income at Rs.6,500/- and has proceeded to award a sum of Rs.7,95,000/- towards partial permanent disablement and totally awarded a sum of Rs.10,99,600/-. Challenging the same, the present appeal has been filed.

6. According to the learned counsel appearing for the appellant, since the tribunal has arrived at a finding that the injured claimant was in a drunken mood, certain percentage of the award amount should have been deducted for the contributory negligence on the part of the claimant. He further contended that the claimant was not having valid and effective driving license at the relevant point of time. He further pointed out when multiplier method has been adopted by the tribunal, a sum of Rs.39,000/- ought not have been awarded towards loss of income. He further pointed out that the tribunal instead of awarding interest at the rate of 7.5%, has awarded interest at the rate of 9%. Hence, he prayed for allowing the appeal to the extent as stated above.

7. Though the claimant has been served, there is no representation either in person or through counsel.

8. I have carefully considered the submissions made on the side of the appellant.



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9. The primary contention of the learned counsel appearing for the appellant is that the injured claimant was in a drunken mood at the relevant point of time and therefore, he has also contributed to the accident. The said submission is attractive in the first blush. It is the case of the claimant that he was riding on the left hand side of the road and the bus from the opposite direction came in a rash and negligent manner and had dashed against the two wheeler, in which he was injured. This part of the contention has not been denied in the counter affidavit filed by the Transport Corporation. Therefore, even assuming that the injured claimant was in a drunken mood, when the driver of the Transport Corporation having driven the vehicle in a rash and negligent manner and came on the wrong side of the road, this Court is not inclined to accept the said contention.

10. The claimant had sustained grievous injuries and his right leg has been amputated below the knee portion. Therefore, the tribunal was right in adopting the multiplier method considering the fact that the injured claimant is a Mason. In such circumstances, this Court is not inclined to delete a sum of Rs.39,000/- which was awarded towards loss of income. This Court is also taking into consideration the fact that the tribunal has not awarded any amount towards future prospects. In such



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circumstances, there is no ground to interfere in the quantum of award.

However, the tribunal was not right in awarding 9% interest to the award amount. The interest is modified from 9% to 7.5% from the date of filing of the claim petition.

11. In view of the above, this Civil Miscellaneous Appeal stands allowed to the extent as stated above. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

24.04.2024

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



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Judgment made in
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