



CMA.No.523 of 2025

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :24.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.523 of 2025

The Managing Director
The Tamil Nadu State Transport Corporation
Divisional Office II
Periyamilaguparai
Trichy-1

... Appellant

Vs.

Senthil Kumar

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to set aside the award and decree dated 23-02-2022 made in MCOP.No.74/2020 on the file of the MACT, Principal Sub Judge, Vridhachalam in so far as awarding the award to the sum of Rs.9,56,920/- with interest at 7.5 percentage from the date of filing i.e., 19-06-2020 with cost.

For Appellants : Mr.C.Gautham Raj



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JUDGMENT

The Civil Miscellaneous Appeal has been filed by the Tamil Nadu State Transport Corporation challenging the award passed by the Motor Accident Claims Tribunal on the questions of negligence and quantum.

2. It is the case of the respondent/claimant that on 13.01.2019, he was riding a motor cycle towards Karuveppilankurichi from Vridhachalam. When he was nearing a newly constructed bridge between Vedappar koil and Karuveppilankurichi, the bus, owned by the appellant corporation bearing registration No.TN 45 N 3582, was driven in a rash and negligent manner by its driver and dashed against the two-wheeler of the claimant. As a result of which, the claimant suffered fracture on his right patella (K.wire fixation) right femur (ORIF) and also received injuries in the right knee, right and left toes, left side of the forehead and left knee. Claiming compensation for the injuries suffered, the claimant approached the Motor Accident Claims



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3. The claim petition was opposed by the appellant corporation mainly on the ground that accident had occurred only due to the rash and negligent driving of the two wheeler of the claimant. The respondent corporation also disputed the age, income and occupation of the injured.

4. Before the Tribunal, the claimant was examined as P.W1. On his side, 8 documents were marked as Ex.P1 to Ex.P8. The driver of the appellant corporation was examined as R.W.1. The doctor who treated the victim immediately after the accident was examined as R.W.2. On the side of the respondent, no document was marked. The disability certificate issued by the competent medical board was marked as Ex.X1.

5. The Tribunal, on appreciation of evidence available on record,



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came to the conclusion that the accident had occurred only due to the rash and negligent driving of the bus by the driver of appellant corporation. The Tribunal granted a compensation of Rs.9,56,920/-. Aggrieved by the findings on negligence as well as quantum of compensation, the appellant corporation has come before this Court.

6. The learned counsel for the appellant corporation submitted that R.W.2, in his evidence, categorically admitted that there was a smell of alcohol in the breathe of the victim when he was admitted in the hospital. Therefore, he submitted that the victim was under the influence of alcohol at the relevant point of time. Hence, according to him, the Tribunal ought have fixed contributory negligence on the part of the victim. The learned counsel further submitted that respondent/claimant has not produced any document to prove his avocation or income. Therefore, according to him, the notional income of Rs.9000/- fixed by the Tribunal is very much on the higher side.

7. The claimant examined himself as PW.1 and clearly deposed that accident had occurred only due to the rash and negligent driving of



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the driver of the appellant corporation. It is also seen from the findings of the Tribunal that FIR was registered only against the driver of the appellant corporation and the same was also admitted by R.W.1 in his cross-examination. Taking into consideration the evidence of P.W.1 and the corroboration of the same by the contents of the FIR, the Tribunal rightly came to the conclusion that accident had occurred due to the negligence of the driver of the appellant corporation and the said finding requires no interference by this Court.

8. It is vehemently contended by the learned counsel for the appellant that the claimant has not produced any evidence to prove his avocation or income.

9. The accident had occurred in the year 2019. Even if no proof is filed to prove the income, this Court, taking into consideration the date of accident and cost of living, can fix notional income. In the case on hand, the Tribunal fixed only Rs.9,000/- per month as notional income. Taking into consideration the date of accident, the amount of Rs.9,000/-



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fixed by the tribunal is very much on the lower side. Therefore, this Court is not inclined to accept the contentions raised by the learned counsel for the appellant that notional income fixed by the Tribunal is on the higher side. Hence, the appellant has not made out any case to interfere with the findings of the Tribunal. The claimant is satisfied with the compensation and he has not questioned the same. Hence, the Civil Miscellaneous Appeal stands dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

24.02.2025

Index:Yes/No
Internet:Yes/No
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To

1. Motor Accident Claims Tribunal,
Principal Sub Judge, Vridhachalam
2. The Section Officer,
VR Section,



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WEB COPY High Court, Madras.



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S.SOUNTCHAR, J.

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