
(2011) 01 MAD CK 0052

Madras High Court

Case No: Civil Miscellaneous Appeal No. 3330 of 2005

The Managing Director,
Tamil Nadu State
Transport Corporation
Limited

APPELLANT

Vs

Chitravel

RESPONDENT

Date of Decision: Jan. 22, 2011

Citation: (2011) 01 MAD CK 0052

Hon'ble Judges: C.S. Karnan, J

Bench: Single Bench

Advocate: Rajnish Pathiyil, for the Appellant; No Appearance, for the Respondent

Judgement

C.S. Karnan, J.

The above appeal has been filed by the Appellant / Tamil Nadu State Transport Corporation, against the award and

decree dated 10.03.2005 made in M.C.O.P. No. 359 of 2003 on the file of the Motor Accidents Claims Tribunal (Principal Sub Court),

Nagapattinam.

2. The short facts of the case are as follows:

On 21.01.2003, at around 18.00 hours, the Petitioner was proceeding on his motorcycle bearing Registration No. TN-50-B-9327 on the

Mannargudi road, when at that time, the Respondent bus, bearing Registration No. TN-32-N-0338, came in a rash and negligent manner and

dashed against the motorcyclist, resulting the Petitioner had sustained grievous injuries, hence, the Claim Petition has been filed against the

Respondent for claiming compensation i.e. a sum of Rs. 5,00,000/-with interest.

3. The Respondent/Transport Corporation had filed a counter statement stating that the driver of the bus had not committed the accident. Actually

the bus was proceeding from Koradacheri to Mannargudi and at that time the Petitioner came at high speed on his motorcycle and dashed against

the bus, as such the accident took place. The Respondent denied the income, age and occupation of the Petitioner. Further, the owner of the

motorcycle and the Insurance Company had not been imp leaded in the claim case. Therefore, the case is not maintainable.

4. On pleading of both parties, the Tribunal had framed one issue for consideration, viz.,:

1. Whether the claimant is entitled to receive compensation

5. On the side of the claimant, two witnesses were examined viz., P.W.1 - claimant, P.W.2 Doctor Rajagopal. The claimant marked sixteen

documents, viz., First Information Report, Accident Register, Medical bills series, Vehicle particulars, X-ray and disability certificate etc. P.W.1,

had adduced evidence that, on 21.01.2003, at about 06.00 p.m., he had been traveling on his motorcycle when at that time the Respondent bus

came at high speed and in a rash and negligent manner and dashed against the motorcyclist. In order to prove the same, the First Information

Report and Charge Sheet had been filed against the driver of the bus. The claimant further adduced evidence that he had undergone treatment at

Thanjavur Vinodhangan Medical Hospital. He further stated that the right thigh bone was fractured and his leg got shortened from the other leg. In

order to prove the same medical record P.6 had been marked. P.W.2 had adduced evidence that he had examined the claimant and verified the

medical records and assessed for disability as 40%, he further stated that the claimant's right leg bone had fractured and with a deformity. The

claimant had undergone surgical operation and his leg joint had reduced, bone grafting was done. The claimant stated that he was a motor

mechanic and was earning a sum of Rs. 6,000/-per month, his age was 36 years.

6. After considering the evidences of the witnesses the Tribunal had awarded Rs. 2,75,000/-with 9% interest. Aggrieved by the said award the

Appellant/Tamil Nadu State Transport Corporation has filed the present appeal.

7. Learned Counsel for the Appellant argued that the Tribunal had adopted the multiplier method and awarded compensation a sum of Rs.

1,20,000/-besides Rs. 1,00,000/-towards medical expenditure, which are not appropriate since the claimant had undergone treatment at

Mannargudi and Thanjavur Government Hospitals, for sustaining simple injuries .

8. In view of the facts and circumstances of the case and arguments advanced by the learned Counsel for the Appellant and on perusing the

impugned award of the Tribunal, this Court is of the considered opinion that the multiplier method adopted by the Tribunal is inappropriate hence,

this Court modifies the compensation as follows:

Rs.80,000/-towards disability

Rs.1,15,000/-towards medical expenditure

Rs.15,000/-towards pain and sufferings

Rs.5,000/-towards attendant charges

Rs.5,000/-towards transport charges

Rs.5,000/-towards nutritious food and

Rs. 12,000/-towards loss of income during the treatment period and convalescent periods.

In total this Court grants a sum of Rs. 2,37,000/-as compensation. Therefore, the original award of a sum of Rs. 2,75,000/-granted by the Tribunal

has been scaled down to Rs. 2,37,000/-.

9. Therefore, it is open to the claimant to withdraw compensation with accrued interest thereon lying in the credit of M.C.O.P. No. 359 of 2003,

on the file of the Motor Accidents Claims Tribunal, Nagapattianm, after filing necessary payment out application in accordance with law, subject to

withdrawals if any, made already. Likewise, the Appellant is at liberty to withdraw the excess compensation amount with accrued interest thereon

after observing necessary formalities of the Court below.

10. In the result, the above Civil Miscellaneous Appeal is partly allowed. Consequently, the Award and Decree dated 10.03.2005, made in

M.C.O.P. No. 359 of 2003, on the file of the Motor Accidents Claims Tribunal, Nagapattinam, is modified. There is no order as to costs.

Consequently, connected Miscellaneous Petition is closed.