

Chinna Kannu Vs Tamil Nadu State Transport Corporation Limited

Court: Madras High Court

Date of Decision: Sept. 27, 2010

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

Bench: Single Bench

Advocate: P. Jagadeesan, for the Appellant; B. Vijayalakshmi, for the Respondent

Final Decision: Allowed

Judgement

C.S. Karnan, J.

The above Civil Miscellaneous Appeal has been filed by the Appellant / claimant against the award and decree passed by

the Motor Accidents Claim Tribunal, 1st Additional District Judge cum Chief Judicial Magistrate, Salem, 11nd Additional District Judge, Salem

made in M.C.O.P. No. 1640 of 2000, dated 27.02.2003.

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

On 01.07.2000, the Petitioner was travelling in the Respondent bus bearing Registration No. TN27-N-1006 towards Papparapatti on the

Pennagaram Road, when the bus had stopped at R1 quarters around 07.45 p.m., when at that time, the claimant tried to alight from the bus, when

the driver had suddenly started the bus, as a result, she was thrown out from the bus into the ground, as a result, she had sustained grievous

injuries. Hence, the compensation petition filed against the Respondent for a sum of Rs. 1,50,000/- with interest.

3. The Respondent had filed a counter statement and resisted the claim petition. The age, income and occupation of the claimant are denied. The

claimant was not travelling in the Respondent bus. The driver of the bus had not committed the accident in a rash and negligent manner, besides the

claim amount is excessive.

4. On the plea of both parties, the Tribunal had framed two issues for consideration, namely;

(i) Was the accident committed by the driver of the bus in a rash and negligent manner?

(ii) If so, what is the quantum of compensation, the claimant is entitled to?

5. On the side of the claimant two witnesses had been examined viz., PW1-claimant, PW2-Dr.Singaram and eight document were marked viz.,

Ex.P1-First Information Report, Ex.P2-Wound Certificate, Ex.P3-Discharge Summary, Ex.P4-Medical Bill Series, Ex.P5-Wound Certificate,

Ex.P6-C. T. Scan Report, Ex.P7-Scan Report, Ex.P8-Scan bill. On the side of the Respondent the driver of the bus was examined as RW1 and

No. document was marked.

6. PW1 had adduced evidence that she was travelling in the Respondent bus from Annannur to Pappaparatti on 01.07.2000 and when the bus

stopped at Rule 1. Quarters, when the passengers were alighting, she also tried to alight from the bus, but before doing so, the conductor gave the

whistle, as a result, she lost her balance and fell down into the ground, resulting in her sustaining injuries. Immediately, she was taken to the

Government Hospital, Dharmapuri for medical treatment. She further stated that she had sustained injuries on the nape of her neck, right hand arm,

right shoulder and various other bodily injuries. She had undergone treatment for a period of two days as an inpatient, thereafter, she underwent

treatment as an outpatient, sutures were done on her head. She further stated that she is an agricultural coolie and earning a sum of Rs. 3,000/-per

month. Due to the accident, she is having impairment in hearing. PW2 doctor had examined the claimant and assessed the disability as 50%, he

also spoke in tandem regarding the nature of injuries and the physical condition of the claimant.

7. On considering the evidence of the witnesses and documentary evidence, the Tribunal had awarded a sum of Rs. 36,000/-with interest at the

rate of 9% per annum.

8. Not being satisfied with the said award, the claimant has filed the above appeal for adequate compensation.

9. The learned Counsel for the claimant argued that the claimant had sustained 50% disability and the same was assessed by the doctor; the

claimant had sustained head injuries including bone fracture. Due to the accident, she is having impairment in hearing. After the accident her

physical condition does not permit her to do hard jobs as an agricultural coolie, which is her avocation.

10. Learned Counsel for the Transport Corporation argued that the doctor had assessed the disability as 50% is on the higher side, the claimant

sustained simple injuries and to substantiate the same, the medical records show that she had undergone treatment at a Government Hospital for

two days as an inpatient. The Tribunal awarded the compensation i.e., a sum of Rs. 36,500/-which comprises of disability, pain and suffering loss

of income, transport, nutrition, and damages to clothes, as such all necessary heads are covered. Per contra, the learned Counsel for the claimant

argued that the attender charges are not considered besides the award amounts are on the lower side on all heads.

11. On considering the facts and circumstances of the case and arguments advanced by the learned Counsels on either side and on perusing the

impugned award of the Tribunal, this Court is of the considered opinion that the claimant had sustained head injury and sutures were done, she is

having impairing in hearing and disability of 50% as assessed by the doctor and she being an agricultural coolie, as such she is totally dependant on

her physical strength for her livelihood. Due to the accident she lost her usual strength, therefore, she is entitled to receive adequate compensation,

hence, this Court grants compensation as follows:

Rs. 50,000/-, Rs. 3,000/-, Rs. 5,000/-, Rs. 4,000/-, Rs. 5,000/-, Rs. 5,000/-, Rs. 5,000/-and Rs. 500/-, granted towards disability, medical

expenses, nutrition, pain and suffering, transport, attender charges and loss of income during the medical treatment period and damage to her

clothes respectively, in total, this Court awards a sum of Rs. 77,500/-which is fair and justifiable in the instant case. Therefore, this Court after

deducting the initial compensation a sum of Rs. 36,500/-the balance compensation a sum of Rs. 41,000/-considered as adequate compensation.

This amount will carry interest at the rate of 7.5% per annum from the date of filing the claim petition till the date of payment of the compensation.

12. Therefore, this Court directs the State Transport Corporation to deposit the modified compensation amount, as observed above, to the credit

of M.C.O.P. No. 1640 of 2000 on the file of the Motor Accident Claims Tribunal, Ist Additional District Judge cum Chief Judicial Magistrate,

Salem, IInd Additional District Judge, Salem within a period of six weeks from the date of receipt of the order. After such a deposit being made, it

is open to the claimant to withdraw the modified compensation, as fixed by this Court lying in the credit of M.C.O.P. No. 1640 of 2000 on the file

of the Motor Accident Claims Tribunal, Ist Additional District Judge cum Chief Judicial Magistrate, Salem, IInd Additional District Judge, Salem,

after filing a Memo along with this order.

13. Resultantly, the above civil miscellaneous appeal is partly allowed. Consequently, the award and decree passed by the Motor Accident Claims

Tribunal, Ist Additional District Judge cum Chief Judicial Magistrate, Salem, IInd Additional District Judge, Salem made in M.C.O.P. No. 1640 of

2000, dated 27.02.2003 is modified. There is No. order as to costs.