



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 24.10.2019**

**CORAM**

**THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY**

**C.M.A. (MD) .No.682 of 2019**

WEB COPY

P.Gunasekaran

... Appellant/Petitioner

Vs.

Tamil Nadu State Transport Corporation,  
represented by its Managing Director,  
By Pass Road,  
Dindigul,  
Dindigul District.

... Respondent/Respondent

**PRAYER:** Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the fair and decreetal order dated 10.06.2019 made in M.C.O.P.No.60 of 2016 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Theni.

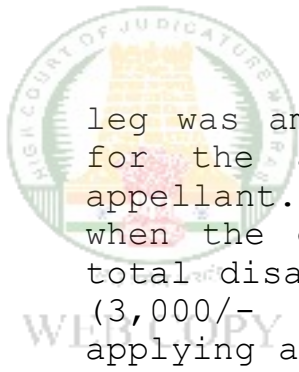
For Appellant : Mr.B.Rajeshsaran  
For Respondent : Mr.K.Sudalaiyandi

**J U D G M E N T**

The Civil Miscellaneous Appeal has been filed challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Theni in M.C.O.P.No.60 of 2016, dated 10.06.2019.

2. The brief facts of the case are that on 15.08.2015, at about 12.30 hours, the claimant was riding a motorcycle bearing Registration No.TN 58 H 3404 from Aandipatti - Theni Main Road, at that time, the bus belonging to the respondent Corporation was driven by its driver in a rash and negligent manner and hit against the motorcycle and caused the accident. Due to the said impact, the appellant/claimant sustained severe injuries and admitted in Government Medical College Hospital, Theni and thereafter, he was admitted in Government Rajaji Hospital, Madurai for further treatment and his left leg was amputated. Hence, he filed a claim petition in M.C.O.P.No.60 of 2016 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Theni, claiming a sum of Rs.12,00,000/- as compensation. But, the Tribunal has awarded a sum of Rs.3,24,000/-. Challenging the same, the present appeal has been filed.

3. In the present case, the appellant/claimant has sustained injuries and the Medical Board examined the appellant/claimant and fixed the disability of the appellant as 85%. He was a Milk vendor and at the time of accident, he was 55 years old. The accident was



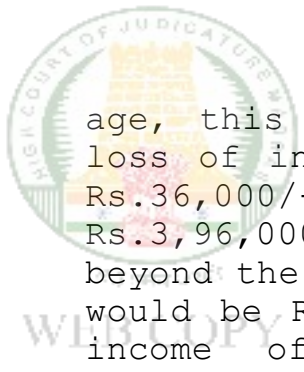
leg was amputated. In this regard, the learned counsel appearing for the appellant has also produced the photographs of the appellant. The learned counsel for the appellant contended that when the entire leg was amputated, the Medical Board fixed 85% total disability and the Tribunal awarded a sum of Rs.2,55,000/- (3,000/- x 85) towards compensation for the disability, by applying a sum of Rs.3,000/- per 1% of the disability. The learned counsel for the appellant further contended that since the appellant's left leg was amputated, he cannot walk and do any work and his disability would be 100% and the amount fixed by the Tribunal for 1% disability is not proper and the Tribunal ought to have applied the multiplier method, while assessing the loss of income.

4. The learned counsel appearing for the respondent/Transport Corporation while admitting the fact that the entire left leg was amputated, he contended that the Doctor was not examined. He further contended that after considering all these aspects, the Tribunal fixed the compensation for the disability and there is no infirmity in the award passed by the Tribunal.

5. Heard the learned counsel for the appellant, the learned counsel for the respondent and perused the materials available on record.

6. In the present case, the disability certificate was issued by the Medical Board and admittedly the entire left leg of the appellant was amputated and he is not in a position to do any work. When that being the case, the Tribunal, without considering the same, awarded Rs.3,000/- per 1 % of disability, which cannot be accepted, due to the reason that even in the case of no fault liabilities, compensation can be awarded by applying the multiplier method both the case of injury as well as fatal. In the present case, the appellant contended that in number of cases, the Tribunal has applied the multiplier method, while determining the compensation. This Court is of the view that it would be appropriate to apply the multiplier method in the present case as the appellant has lost his left leg and thereby lost his entire income. Hence, this Court is inclined to apply the multiplier method. The age of the injured appellant is 55 years and the multiplier applicable to him is '11'. With regard to the monthly income, the Tribunal fixed a sum of Rs.4,500/- as monthly income. However, both the counsels fairly agreed for a sum of Rs.6,000/- may be fixed as monthly income.

7. In view of the agreement, this Court fixes the notional income of the deceased as Rs.6,000/-. The age of the deceased is 55 years and therefore, 10% is to be added towards future prospects. By applying multiplier '5', ie., up to 60 years of



age, this Court awards Rs.3,60,000/- (6,000/- x 12 x 5) towards loss of income and by adding future prospects 10%, it would be Rs.36,000/-. Up to 60 years the loss of income would be Rs.3,96,000/- (Rs.3,60,000/- + Rs.36,000/-). The loss of income beyond the period of 60 years without addition of future prospects would be Rs.4,32,000/- (Rs.6,000/- x 12 x 6). The total loss of income of the injured would be a sum of Rs.8,28,000/- (Rs.3,92,000/- +Rs.4,32,000/-).

8. Further, the Tribunal awarded a sum of Rs.50,000/- towards pain and suffering and the same is confirmed. The Tribunal awarded a sum of Rs.2,000/- towards transportation and the same is very low. Hence, this Court awards a sum of Rs.20,000/-. With regard to the nutrition, the Tribunal awarded a sum of Rs.2,500/- and the same is very low and hence, this Court awards a sum of Rs.10,000/-. The Tribunal awarded a sum of Rs.1,000/- towards damages to cloths and the same is confirmed. With regard to the loss of income, this Court fixes the notional income of the injured as Rs.6000/- and the loss of income for three months is to Rs.18,000/-. Therefore, the loss of income for first 5 years is Rs.3,96,000/- and the loss of income for beyond 60 years Rs.4,32,000/- and the total loss of income would be Rs.8,28,000/- (3,92,000 + 4,34,000). Therefore, the award of the Tribunal stands revised from Rs.3,24,000/-to Rs.9,27,000/- in the manner stated below:

| S. No | Description            | Amount awarded by Tribunal (Rs) | Amount awarded by this Court (Rs) | Award confirmed or enhanced or granted |
|-------|------------------------|---------------------------------|-----------------------------------|----------------------------------------|
| 1.    | For Pain and suffering | 50,000                          | 50,000                            | confirmed                              |
| 2.    | For transportation     | 2,000                           | 20,000                            | enhanced                               |
| 3.    | For nutrition          | 2,500                           | 10,000                            | enhanced                               |
| 4.    | For damages to cloths  | 1,000                           | 1,000                             | confirmed                              |
| 5.    | loss of income         | 13,500                          | 8,28,000<br>+18,000               | confirmed                              |
| 6.    | For 85% disability     | 2,55,000                        | -                                 | -                                      |
|       | Total                  | 3,24,000                        | 9,27,000                          | By enhancing a sum of Rs.6,03,000/-    |



9. In view of the above modification, the Civil Miscellaneous Appeal is allowed in part and this Court directs the Transport Corporation to deposit the entire award amount within a period of twelve weeks from the date of receipt of a copy of this order along with interest at the rate of 7.5%. On such deposit, the Tribunal is directed to transfer the said amount directly to the Personal Savings Account Number of the claimant by way of RTGS/NEFT system, after getting his Account Details, within a period of three weeks thereafter. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar(CS)

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To  
The Motor Accident Claims Tribunal,  
Chief Judicial Magistrate Court,  
Theni.

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VR Section  
Madurai Bench of Madras High Court, Madurai-2 copies

+1 CC to M/s.K.SUDALAIYANDI, Advocate ( SR-94321[F] dated 24/10/2019 )

+1 CC to M/s.B.RAJESH SARAVANAN, Advocate ( SR-94489[F] dated 25/10/2019 )

**C.M.A. (MD) .No.682 of 2019**

**24.10.2019**

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