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CMA.No3690 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2022

CORAM

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.2749 of 2013

C.Locus

... Appellant

Vs.

Tamil Nadu State Transport Corpn. Ltd.,
Rep. by its Managing Director,
Villupuram Division III,
Kanchipuram.

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 28.07.2011 made in MACT.O.P.No.5473 of 2005 on the file of the IV Judge, Motor Accidents Claims Tribunal, (Court of Small Causes), Chennai.

For Appellant : Mrs.M.Malar

For Respondent : Mr.S.S.Santhosakumar

JUDGMENT

This appeal has been filed by the claimant seeking enhancement of compensation under the impugned award dated



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28.07.2011 passed by the Motor Accident Claims Tribunal/ IV Judge,
(Court of Small Causes), Chennai in MACTOP. No.5473 of 2005.

2. The Appellant/claimant unsatisfied with the quantum of compensation awarded by the Tribunal under the impugned award, has preferred this appeal seeking for enhancement.

3. The Motor Accidents Claim Tribunal, under the impugned award, has awarded a compensation of Rs.6,59,000/- together with interest and costs to the Appellant/claimant which is detailed hereunder:

<i>Heads</i>	<i>Award Amount (Rs.)</i>
Loss of Income	1,20,000/-
Transport to Hospital	20,000/-
Extra Nourishment	20,000/-
Medical Expenses	1,00,000/-
Attender Charges	25,000/-
Pain and Sufferings	50,000/-
Permanent Disability	3,24,000/-
Total	Rs.6,59,000/-



4. As a result of an accident occurred on 29.05.2005 which has been caused by the vehicle driven by the driver of the respondent/TNSTC bus, the Appellant/claimant has sustained segmental fracture of both bones at right leg, External fixator readjustment, skin grafting and wound debridement were done, 6 schanz screws well placed, fragments well secured by AO rods and wiring done to the claimant. It is submitted that he was infected non-union of right tibia, sequestrectomy and illizarao fixation was done. He preferred a claim before the Motor Accidents Claims Tribunal seeking compensation for the injuries sustained by him. The Motor Accident Claims Tribunal had directed the respondent to pay the Appellant/claimant, the aforesaid compensation.

5. Before the Tribunal, the Appellant/claimant has filed fourteen documents which were marked as Ex.P1 to Ex.P14 and examined two witnesses as PW1 and PW2. On the side of the respondent/Transport Corporation, one witness viz., Mr.Kuppusamy was examined before the Tribunal as RW1. However, no document was filed.



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6. The learned counsel for the Appellant submitted that the nature of the injuries sustained by the Appellant/claimant has not been disputed by the respondent as seen from the evidence available on record. The Appellant/claimant was hospitalized from 13.12.2005 to 19.12.2005 and also from 13.06.2006 to 21.06.2006 as in-patient at Sri Ramachandra Hospital as seen from the Ex.P2 to Ex.P7 / discharge summaries. The Appellant/claimant were doing provision and real estate business, aged 29 years at the time of the accident. The PW2/Doctor who assessed the injuries of Appellant/claimant has fixed his disability at 60%. However, the Tribunal has reduced the same and has assessed the disability at 30%. The disability compensation awarded by the Tribunal as seen from the impugned award is Rs.3,24,000/- calculated at Rs.5000/- per month adopting the multiplier of '18'. Hence, he prays for enhancement of Award amount.

7. Insofar as the assessment of disability by the Tribunal is concerned, the Tribunal has reduced the disability with a reasoning



that the injuries caused to the claimant in his right leg cannot be assumed that it would be the whole body disability, however he cannot carry with the same efficiency as before the accident. However, considering the nature of the injuries sustained by the Appellant/claimant, this Court is inclined to fix the disability of the Appellant/claimant at 40%.

8. Insofar as the assessment of disability compensation at Rs.5000/- per month is concerned, the same is a correct assessment since the year of the accident is 2005. However, in view of the modification of the disability from 30% to 40% by this Court, the disability compensation is enhanced to Rs.4,32,000/- by this Court instead of Rs.3,24,000/- assessed by the Tribunal.

9. Insofar as the other heads of the compensation are concerned, the assessment of the compensation under the said heads by the Tribunal is a just compensation and it does not call for any interference by this Court.



10. For the foregoing reasons, the compensation awarded by the Tribunal under the impugned award is enhanced from Rs.6,59,000/- to Rs.7,67,000/- in the following manner:

<i>Heads</i>	<i>Amount awarded by the Tribunal</i>	<i>Award Amount (Rs.)</i>
Loss of Income	1,20,000/-	1,20,000/-
Transport to Hospital	20,000/-	20,000/-
Extra Nourishment	20,000/-	20,000/-
Medical Expenses	1,00,000/-	1,00,000/-
Attender Charges	25,000/-	25,000/-
Pain and Sufferings	50,000/-	50,000/-
Permanent Disability	3,24,000/- (30%)	4,32,000/- (40%)
Total	6,59,000/-	7,67,000/-

Conclusion:

11. In the result, this appeal is allowed. However, the rate of interest fixed by the Tribunal at the rate of 7.5% is confirmed. The Respondent/Transport Corporation is directed to deposit the modified amount i.e, Rs.7,67,000/- along with interest and costs, after deducting the amount already deposited, if any, to the credit of MACTOP.No.5473 of 2005 within a period of four weeks from the date of receipt of a copy



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of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount along with accrued interest as per the order of this Court to the Appellant/claimant through RTGS within a period of two weeks thereafter. No costs.

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A.A.NAKKIRAN, J.

gv

To

1. The Motor Accidents Claims Tribunal
IV Judge, (Court of Small Causes),
Chennai.

C.M.A.No.2749 of 2013

2. The Section Officer,
V.R.Section,
High Court, Madras

20.12.2022