



C.M.A.Nos.2635 & 2636 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2023

CORAM : JUSTICE N.SESHASAYEE

C.M.A.Nos.2635 & 2636 of 2023

1.Magesh
2.Senthalir

... Appellant in CMA.No.2635 of 2023
... Appellant in CMA.No.2636 of 2023

Vs

The Managing Director
Metropolitan Transport Corporation
Pallavan Salai, Chennai – 600 002.

..... Respondent in both CMAs

Prayer in CMA.No.2635 of 2023 : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, praying to allow this appeal and enhance the compensation in MCOP.No.285 of 2020 dated 05.08.2022 on the file of the Motor Accident Claims Tribunal / III Additional District Judge, Kallakurichi.

Prayer in CMA.No.2636 of 2023 : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, praying to allow this appeal and enhance the compensation in MCOP.No.284 of 2020 dated 05.08.2022 on the file of the Motor Accident Claims Tribunal / III Additional District Judge, Kallakurichi.



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For Appellant
(in both CMAs)

: Ms.Ramya V.Rao

For Respondent
(in both CMAs)

: Mr.Murali Vinodh

COMMON JUDGMENT

The husband and wife who met with a road accident have preferred two claim petitions viz., MCOP.No.285 of 2020 and MCOP.No.284 of 2020 on the file of MACT (III Additional District Court) Kallakurichi, seeking compensation for the injuries they had suffered. Aggrieved by the perceived inadequacy of the award of the Tribunal, they preferred these present appeals.

2. On 20.03.2020 at about 10.00 hrs., while the husband was riding his two wheeler bearing registration No.TN07-AV-6594, with his wife as a pillion rider, a bus bearing registration No. TN.01-AN-050 dashed against the two wheeler at Thoraipakkam Radial road, owing to which, both of them sustained grievous injuries with lacerated wound all over the body. Initially they were taken to Kamakshi Memorial Hospital, Chennai. Thereafter, they were referred to MIOT Hospital for further treatment.



3. The victims would allege that the driver of the MTC bus had driven it rashly and negligently, he alone is the sole cause for the accident to occur.

4. The respondent-Corporation has filed its counter before the Tribunal in which it contends that the driver of the bus had driven the vehicle with moderate speed with utmost care and caution, observing the traffic rules. It is contended that on the date of accident, the bus was proceeding to Thiruvannamiyur from Aasthinapuram, and when it reached Kamachi Hospital bus stop, the driver of the MTC bus found the two wheeler on the left side of the bus, and noticed that while the two wheeler was in motion, the claimants, the husband and wife were quarreling among themselves, and that even the rider of the two wheeler failed to notice the horn blown by the MTC driver, and the rider suddenly came to the right side of the road in a negligent manner, violating the traffic rules, which resulted in an accident. Hence, the respondent Corporation denies the allegation that driver of the bus alone is the cause for the accident. It is also contended in the counter that the petition is bad for non-joinder of necessary parties namely the owner and the insurer of the two wheeler. It also denied the nature of injuries, alleged disability and period of treatment etc., and contend that the quantum of compensation claimed by the claimants are highly excessive.



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5. Since the date of accident and the parties involved are one and the same, the Tribunal had conducted a joint trial, to which, the respondent Corporation had no objection. During trial, the husband (claimant in MCOP.No.285/2020) was examined as P.W.1, and his wife (claimant in MCOP.No.284/2020) was examined as P.W.2, and the driver of the MTC bus was examined as R.W.1. The Tribunal on perusal of the oral testimony of the claimants and the evidences marked through exhibits, held that the respondent-Corporation is liable for the accident, and it denied the ground raised by the respondent that the claim petitions are bad for non-joinder of necessary parties. It passed an award for Rs.4,36,869/- in MCOP.No.284/2020 preferred by the wife (as against her claim of Rs.20.0 lakhs) and Rs.12,39,587/- in MCOP.No.285/2020 preferred by the husband (as against his claim of Rs.35.0 lakhs) and directed the respondent-Corporation to pay the award amount with interest @ 7.5% per annum from the date of numbering the petition till the date of deposit. The break-up is as below :

In MCOP.No.284/2020 :



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<i>Sl. No.</i>	<i>Heads of Compensation</i>	<i>Amount awarded by Tribunal (Rs.)</i>
1.	Compensation for injuries	50,000.00
2.	Pain and sufferings	10,000.00
3.	Transportation charges	5,000.00
4.	Extra nourishment	5,000.00
5.	Loss of income for 3 moths	2,61,399.00
6.	Medical Expenses (as per Ext.P10)	1,05,470.00
Total :		4,36,869.00

In MCOP.No.285/2020 :

<i>Sl. No.</i>	<i>Heads of Compensation</i>	<i>Amount awarded by Tribunal (Rs.)</i>
1.	Compensation for injuries (Rs.10,000/- x 65)	6,50,000.00
2.	Pain and sufferings	1,00,000.00
3.	Transportation charges	10,000.00
4.	Extra nourishment	10,000.00
5.	Attendant charges	1,00,000.00
6.	Medical Expenses (as per Ext.P10)	3,69,587.00
Total :		12,39,587.00

6.1 Heard both sides. The learned counsel appearing for the appellants/claimants would submit that both the claimants are software engineers and each of them were earning Rs.65,000/- per month, and they were 35 years and 32 years old at the time of accident. The husband was diagonised with forefoot and left below knee amputation. The Medical Board had assessed his disability at 65%. Insofar the wife is concerned, she is



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diagonised with traumatic pelvic injury, symphysis pubic diastasis. They both had been hospitalized for nearly about 10–15 days.

6.2 The learned counsel submitted that the Tribunal had failed to compensate on the heads of loss of amenities, future medical expenses and attendant charges for both the victims of the accident. She added that the award of the Tribunal is not in commensuration with the injuries suffered by the appellants, and therefore, requires adequate enhancement.

7. This Court finds merit in the submissions of the learned counsel for the appellants/claimants. Therefore, this Court modifies the award of the Tribunal in both MCOPs and enhances the compensation in the appeals filed before this Court. The details of revised award on the various heads of compensation are as below :

In CMA.No.2636 of 2023 (MCOP.No.284/2020) :

<i>Sl. No.</i>	<i>Heads of Compensation</i>	<i>Revised Award amount (Rs.)</i>	<i>Altered/ Unaltered / Added</i>
1.	Compensation for injuries	50,000.00	Unaltered
2.	Pain and sufferings	2,00,000.00	Altered
3.	Transportation charges	20,000.00	Altered
4.	Extra nourishment	20,000.00	Altered
5.	Loss of income for 3 months	2,61,399.00	Unaltered



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<i>Sl. No.</i>	<i>Heads of Compensation</i>	<i>Revised Award amount (Rs.)</i>	<i>Altered/ Unaltered / Added</i>
6.	Medical Expenses (as per Ext.P10)	1,05,470.00	Unaltered
7.	Attendant charges	40,000.00	Added
8.	Loss of Amenities	2,00,000.00	Added
Total :		8,96,869.00 - rounded off to Rs.8,97,000/-	

In CMA.No.2635 of 2023 (MCOP.No.285/2020) :

<i>Sl. No.</i>	<i>Heads of Compensation</i>	<i>Revised Award amount (Rs.)</i>	<i>Altered/ Unaltered / Added</i>
1.	Compensation for injuries (Disability)	6,50,000.00	Unaltered
2.	Pain and sufferings	2,00,000.00	Altered
3.	Transportation charges	50,000.00	Altered
4.	Extra nourishment	50,000.00	Altered
5.	Attendant charges	3,00,000.00	Unaltered
6.	Medical Expenses (as per Ext.P10)	3,69,587.00	Unaltered
7.	Loss of Amenities	5,00,000.00	Added
8.	Future Medical Expenses	3,00,000.00	Added
Total :		24,19,587.00 - rounded off to Rs.24,20,000/-	

8.To conclude, this Court allows both the appeals and the compensation payable is enhanced from **Rs.4,36,869/- to Rs.8,97,000/-** in CMA.No.2636 of 2023 and **Rs.12,39,587 to Rs. 24,20,000/-** in CMA.No.2637 of 2023. The respondent-Transport Corporation is now required to deposit the said revised award amount with interest @ 7.5% per annum, less the interest payable for



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the delay period in preferring this appeal by the appellants / less award amount if any already deposited before the Tribunal, within a period of six (6) weeks from the date of receipt of a copy of this order. The appellants are permitted to withdraw the award amount, now determined by this Court, along with interest and costs, less the amount if any, already withdrawn. The appellants are directed to pay the necessary court fee on the enhanced award amount, if any. No costs.

19.12.2023

Index : Yes / No
Speaking order / Non-speaking order
ds



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To:

1.The III Additional District Judge
MCOP Tribunal
Kallakurichi.

2.The Section Officer
VR Section
High Court, Madras.



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N.SESHASAYEE.J.,

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