



C.M.A.No.683 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14.06.2023

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

CMA.No.683 of 2022

P.Murugesan

... Appellant

Vs.

Tamil Nadu State Transport Corporation Ltd.,
No.37, Mettupalayam Road,
Coimbatore,
Coimbatore District- 641 043.

... Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 challenging the Judgment and Decree dated 24.09.2019 in M.C.O.P.No. 805 of 2016 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate), Namakkal.

For Appellant : Mr.R.Nalliyappan

For Respondent : Mr.A.Sundaravadanan



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JUDGMENT

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The appeal is filed by the claimant seeking enhancement of compensation of Award and Decree, dated 24.09.2019 in M.C.O.P.No. 805 of 2016 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate), Namakkal

2. The brief facts, leading to the above appeal are as follows:

On 07.04.2016 at about 03.15 a.m, when the claimant was travelling in the the respondent/Corporation bus, the driver of the bus drove the vehicle in a rash and negligent manner, dashed against a Tamarind Tree and caused the accident, due to which, the claimant sustained multiple injuries all over his body. Therefore, the claimant filed a claim petition before the Claims Tribunal seeking Rs.10,00,000/- as compensation.

3. Before the Claims Tribunal, the claimant examined himself as P.W.1 and two other witnesses were also examined as P.W.2 and P.W.3. Documents Ex.P.1 to Ex.P.15 were marked. On the side of the respondent, no witness was examined, nor any document was marked. The Court document was marked as Ex.C.1.



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4. The learned counsel for the appellant submitted that the Tribunal erred in awarding Rs.3,000/- per percentage towards permanent disability. According to the learned counsel, the Tribunal ought to have awarded Rs.5,000/- per percent of disability by following the Judgment of this Court in *Chinnathambi Vs Deepa*. The learned counsel further submitted that the award of the Claims Tribunal towards loss of earning, Transport charges and extra nourishments were on the lower side. The learned counsel further submitted that the Tribunal ought to have awarded reasonable amount towards attender charges, considering the fact that the claimant was hospitalised for more than 10 days, which is evident from Ex.P.8. The learned counsel therefore submitted that the award of the Claims Tribunal was on the lower side and the same deserved to be enhanced.

5. The learned counsel for the respondent, on the other hand, submitted that the award passed by the Claims Tribunal was just, fair and reasonable and the same did not call for any interference by this Court.

6. I have heard both the learned counsels and have perused the materials placed on record.



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7. It is seen that the claimant suffered fracture of both bones on his right leg and he had undergone surgery for the same and was hospitalised from 09.04.2016 to 23.04.2016 as evidenced from Ex.P.8, the discharge summary issued by London Ortho Speciality Hospital, Salem. The Medical Board assessed the disability under Ex.C.1 at 20%. It is seen that the Claims Tribunal found that it was not a fit case for adopting multiplier method and therefore, assessed the compensation under the head “disability” by adopting unit method. Though the Tribunal in my view is justified in adopting the unit method, it erred in awarding Rs.3,000/- per percent of disability. Following the Judgment in the case of *M.Chinnathambi vs. Deepa and another.*, the Claims Tribunal ought to have adopted Rs.5,000/- per percentage of disability and therefore the award towards permanent disability is increased from Rs.60,000/- to Rs.1,00,000/- (Rs.5000x20%).

8. In view of the nature of injuries sustained by the claimant and the period of hospitalisation underwent by him, I am of the view that the award of the Claims Tribunal needs to be modified and the same is modified as follows.

S.No.	Various Heads	Award by Tribunal (amount in Rs.)	Award by this Court (amount in Rs.)
1.	Medical expenses	61,200/-	61,200/-
2.	Loss of earning	24,000/-	40,000/-



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<i>S.No.</i>	<i>Various Heads</i>	<i>Award by Tribunal (amount in Rs.)</i>	<i>Award by this Court (amount in Rs.)</i>
3.	Transportation Charges	4,800/-	15,000/-
4.	Extra Nourishment	5,000/-	15,000/-
5.	Pain and Suffering	45,000/-	45,000/-
6.	Permanent Disability	60,000/-	1,00,000/-
7.	Attender Charges	Nil	15,000/-
Total compensation		2,00,000/-	2,91,200/-

9. Accordingly, there shall be a direction to the respondent/Transport Corporation to deposit the entire compensation amount of Rs.2,91,200 along with 7.5% interest from the date of claim petition till the date of deposit, less amount, if any already deposited, within a period of six (6) weeks from the date of receipt of copy of this Judgment. On such deposit being made, the claimant shall withdraw the same.

In the result, this Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs.

14.06.2022

dsn

Index: Yes/No

Speaking Order: Yes/No

Neutral citation: Yes/No



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To

The Chief Judicial Magistrate,
Motor Accidents Claims Tribunal,
Namakkal

Copy to
The Section Officer,
V.R.Section,
High Court, Madras.



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N.MALA.J.,

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