



C.M.A.No.1439 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

Civil Miscellaneous Appeal No.1439 of 2021

Thomas

... Appellant/petitioner

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
(Kumbakonam Division-II),
Trichy – 1.

... Respondent/Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award and Decree dated 12.03.2020, made in M.C.O.P.No.2079 of 2014, on the file of the Motor Accidents Claims Tribunal, IV Small Causes Court, Chennai.

For Appellant : Ms. Sunitha

For Ms. Abirami

For Respondent : Mr. M. Murali Vinodh

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the claimant seeking enhancement of compensation granted by the Tribunal in the Award passed in M.C.O.P.No.2079 of 2014, dated 12.03.2020, on the file of the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai.



2. The parties are referred to hereunder according to their litigative status and ranking before the Tribunal.

3. The facts leading to filing of this appeal is that on 03.08.2011 at about 10.00 a.m., while the petitioner was crossing Kedilam Bridge down on Villupuram to Ulundurpet National Highway, the Transport Corporation bus bearing Registration No.TN 45 N 2913 came in rash and negligent manner and hit on the petitioner resulting which, the petitioner sustained grievous injuries. After taking treatment, he has come forward with the claim petition claiming compensation of Rs.10,00,000/- for the injuries sustained by him in the road accident.

4. The respondent - Transport Corporation filed counter and disputed the liability fixed on them and also questioning the quantum of compensation awarded.

5. The Tribunal, after considering the evidences placed on record has held that the driver of the bus was responsible for the accident and the



claimant is entitled for compensation for a sum of Rs.89,100/- to be payable by the respondent herein.

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6. The appeal has been filed by the claimant only on the ground that the compensation awarded by the Tribunal is on the lower side hence the same requires enhancement.

7. The learned counsel for the claimant has submitted that the Tribunal has not properly awarded compensation under the head disability and without any reason the disability is reduced and the percentage of disability fixed by him is also on the lower side. He has also stated that the compensation awarded under other heads are also on the lower side and prays to enhance the same.

8. Per Contra, the learned counsel for the Transport Corporation has submitted that based on the injuries sustained, the Tribunal has properly appreciated the disability fixed by the doctor and accordingly, compensation is being awarded hence prays to confirm the award.



9. I have considered the rival submissions made on both sides and also perused the materials placed on record.

10. The claimant was examined by P.W.2 – Doctor, who issued Disability Certificate has stated that the claimant has sustained multiple hip fractures on the left side. The evidence of P.W.2 also corroborated by the evidence of Exs.P2 and P3 - Discharge Summaries issued by the Government Head quarters Hospital, Villupuram and Jipmer Hospital, Puducherry. However, the Tribunal has not accepted the percentage of disability, stating that, at the time of discharge from the hospital, the injuries sustained by him were healed and he was comfortable and his condition was normal. Further he was directed to undergo review, but no further documents for further treatment has been produced before the Tribunal. After considering the nature of injury sustained and also exhibits and records produced relating to treatment, the Tribunal has fixed the disability at 25% and this Court finds there is no infirmity in the said finding and the disability 25% fixed by the Tribunal is acceptable. However the Tribunal has only awarded a sum of Rs.2,000/- per percentage of injury and this Court is of the view the same is not in accordance with the Judgment of this



Court in *M.Chinnathambi vs. S.Deepa and Another [AIR Online 2020*

MAD 2450], and this Court is inclined to award a sum of Rs.3,000/- per percentage of injury. Accordingly, the compensation awarded under the dead disability is enhanced to Rs.75,000/-.

11. The Tribunal has also not awarded compensation under the head loss of income during treatment period. Exs.P2 and P3 shows that the claimant has undergone in-patient treatment for 19 days in two different hospitals and this court is of the view that he is entitled for 2 months compensation as loss of income during treatment period. Accordingly, a sum of Rs.16,000/- [8000 x 2 months] is hereby awarded under the head loss of income during treatment period. As far as the compensation awarded under other heads are concerned, the same are just and reasonable and the same are hereby confirmed.

12. Thus, the compensation awarded by the Tribunal under various heads are hereby modified as follows:

S. No	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or
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		(Rs)	(Rs)	granted
1.	Disability	Rs.50,000/-	Rs.75,000/-	Enhanced
2.	Loss of Income	Rs.8,000/-	Rs.16,000/-	Confirmed
3.	Pain and suffering	Rs.10,000/-	Rs.10,000/-	Confirmed
4.	Transportation Expenses	Rs.5,000/-	Rs.5,000/-	Confirmed
5.	Additional nourishment	Rs.5,000/-	Rs.5,000/-	Confirmed
6.	Damages to clothes	Rs.1,000/-	Rs.1,000/-	Confirmed
7.	Attender Charges	Rs.5,100/-	Rs.5,100/-	Confirmed
8.	Loss of Amenities	Rs.5,000/-	Rs.5,000/-	Confirmed
	Total	Rs.89,100/-	Rs.1,22,100/-	Enhanced by Rs.33,000/-

13. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.89,100/- is hereby enhanced to Rs.1,22,100/- [Rupees One Lakh Twenty Two Thousand and One Hundred only] together with interest at the rate of 7.5% per annum from the date of filing of claim petition till the date of deposit excluding the default period, if any. The respondent-Insurance Company is directed to deposit the award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.2079 of 2014 on the file of the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai. On such deposit, the



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appellant/claimant is permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn. The Tribunal shall disburse the amount now awarded by this Court by directly giving credit to the Savings Bank Account of the claimant without any formal application. Since this Court has enhanced the compensation, the appellant/claimant is directed to pay the necessary Court fee, if any, on the enhanced compensation. In other aspects, the award of the Tribunal shall stand confirmed. There shall be no order as to costs in the present appeal.

20.12.2023

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Index : Yes / No

Speaking Order: Yes / No

Neutral Citation Case : Yes/No

To

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

2.The Section Officer,

7/9



VR Section,
High Court, Madras.

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K.RAJASEKAR,J.,

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