



C.M.A.No.2626 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2023

CORAM:

**THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

C.M.A.No.2626 of 2021

Muthu

... Appellant / petitioner

Vs.

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

... Respondent/Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award and Decree dated 21.06.2018 made in M.C.O.P.No.3452 of 2015, on the file of the Motor Accidents Claims Tribunal, IV Small Causes Court, Chennai

For Appellant : Mr. K. V. Muthuvisakan

For Respondent : Mr. K. Moorthy



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C.M.A.No.2626 of 2021

## **JUDGMENT**

This Civil Miscellaneous Appeal has been filed by the claimant seeking enhancement of compensation awarded in M.C.O.P.No.3452 of 2015, dated 21.06.2018, on the file of the Motor Accidents Claim 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 case of the claimant is that on 03.03.2015 at about 12.30 hours, the claimant was riding his two-wheeler bearing Registration No.TN 19 J 7444 at K.H. Road, while he reached near Anderson Salai Junction a Bus bearing Registration No.TN 01 N 5322 came in rash and negligent manner and dashed against the petitioner resulting which, the petitioner sustained grievous injuries. Immediately, he was admitted into the Government Kilpauk Medical College Hospital, Chennai for treatment. After discharged from the hospital, he has filed the claim petition under Section 166 of the Motor Vehicles Act, claiming compensation of Rs.10,00,000/-.



C.M.A.No.2626 of 2021

WEB COPY

4. Based on the evidences placed on record, the Tribunal has quantified the compensation and awarded a sum of Rs.1,91,157/- as compensation payable to the claimant along with interest at the rate of 7.5% per annum from the date of filing of claim petition till the date of realisation.

5. Aggrieved over the quantum of compensation fixed by the Tribunal, the claimant has approached this Court seeking enhancement of compensation.

6. The learned counsel for the claimant has submitted that the percentage of disability has been drastically reduced by the Tribunal inspite of acceptable evidence adduced to prove the disability. The evidence of P.W.2 has not been properly appreciated by the Tribunal. P.W.2 in his evidence has stated that the claimant has sustained one communitied fracture in left clavicle and procedure in open reduction and internal fixation was also done. Hence prays to fix the disability at 30% and also enhance the compensation.

7. The learned counsel for the Insurance Company has submitted



C.M.A.No.2626 of 2021

that the Tribunal based on the evidences placed on record has fixed the notional income and disability has also been properly fixed and hence there is no need for enhancing the same.

8. I have considered the rival submissions made on both sides and perused the entire records.

9. The Tribunal eventhough accepted the injuries sustained by the claimant but has not accepted the percentage of disability and modify the same into 15% disability since communited fracture on the left clavicle. The claimant has undergone 7 days inpatient treatment, and medical records shows that, its a clavicle fracture and has not caused any severe disability in continuing his regular activities. The Tribunal has given reasons for fixing the disability. This Court is of the view that fixing percentage of 15% disability is proper and the same is hereby confirmed. Hon'ble Apex Court in ***Chinnatambi vs. Deepa [2020 (1) TN MAC 617]*** wherein, this Court by following the Judgment of this Court in ***National Insurance Company Limited vs. G.Ramesh [2013 (2) TN MAC 583]*** has fixed the compensation



C.M.A.No.2626 of 2021

per percentage for the accident taken place in the year 2015 a sum of Rs.4,000/- per percentage of disability. Accordingly, the disability has been calculated as follows:  $[4000 \times 15 = \text{Rs.}60,000/-]$ . As far as the compensation awarded under other heads are concerned, this Court is of the view the Tribunal has awarded just compensation and the same requires no modification and the same are hereby confirmed.

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

| S. No | Description                                | Amount awarded by Tribunal (Rs)              | Amount awarded by this Court (Rs)            | Enhanced/ Reduced / Granted / Confirmed |
|-------|--------------------------------------------|----------------------------------------------|----------------------------------------------|-----------------------------------------|
| 1.    | Towards Transportation and nourishing food | Rs.10,000/-                                  | Rs.10,000/-                                  | Confirmed                               |
| 2.    | Attender Charges                           | Rs.4,000/-                                   | Rs.4,000/-                                   | Confirmed                               |
| 3.    | Medical Expenses                           | Rs.42,157/-                                  | Rs.42,157/-                                  | Confirmed                               |
| 4.    | Disability                                 | Rs.45,000/-                                  | Rs.60,000/-                                  | Enhanced                                |
| 5.    | Loss of earning                            | Rs.30,000/-                                  | Rs.30,000/-                                  | Confirmed                               |
| 6.    | Damages for pain, suffering and trauma     | Rs.40,000/-                                  | Rs.40,000/-                                  | Confirmed                               |
| 7.    | Loss of amenities                          | Rs.20,000/-                                  | Rs.20,000/-                                  | Confirmed                               |
|       | <b>Total</b>                               | <b>Rs.1,91,157/-<br/>@<br/>Rs.1,91,200/-</b> | <b>Rs.2,06,157/-<br/>@<br/>Rs.2,06,200/-</b> | <b>Enhanced by Rs.15,000/-</b>          |



C.M.A.No.2626 of 2021

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11. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal is at Rs.1,91,200/- is hereby enhanced to Rs.2,06,200/- [Rupees Two Lakhs Six Thousand and Two 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.3452 of 2015, on the file of the Motor Accidents Claims Tribunal, IV Small Causes Court, Chennai. On such deposit, the claimant is permitted to withdraw the award amount, now determined by this Court, along with proportionate interest and costs, less the amount, if any, already withdrawn. The Tribunal shall disburse the amount by directly giving credit to the Savings Bank Account of the claimant. Since this Court has enhanced the compensation, the appellant/claimant is directed to pay 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



C.M.A.No.2626 of 2021

present appeal.

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14.12.2023

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Index : Yes / No

Speaking Order: Yes / No

Neutral Citation Case : Yes/No

To

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

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

K.RAJASEKAR,J.

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C.M.A.No.2626 of 2021

C.M.A.No.2626 of 2021

14.12.2023