



C.M.A.Nos.1261 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated: 20.06.2023

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

CMA.No. 1261 of 2022

S.Ramesh

...Appellant

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram Ltd.,
Villupuram.

...Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 challenging the Judgment and Decree passed in M.C.O.P.No.5741 of 2015 dated 12.03.2018 on the file of the Motor Accidents Claims Tribunal/ in the Principle Special Judge, Special Court under E.C. & NDPS Act, Chennai.

For Appellant : Mr.R.Mohan Babu

For Respondent: M/s.J.Tamil Selvi



C.M.A.Nos.1261 of 2022

JUDGMENT

This appeal is filed challenging the Award and Decree dated 12.03.2018 passed in M.C.O.P.No.5741 of 2015 on the file of the Motor Accidents Claims Tribunal, Special Court under E.C. & NDPS Act, Chennai.

2. The appeal is filed by the claimant seeking for enhancement of compensation.

On 30.05.2015, when the claimant was travelling in the respondent's Transport Corporation bus, the driver of the bus drove the vehicle in a rash and negligent manner and hit another bus from behind, thus causing the accident. The claimant sustained injuries due to the impact of the accident.

3. According to the claimant, the accident occurred due to the rash and negligent driving of driver of the bus. He therefore filed the claim petition seeking a sum of Rs.8,00,000/- as compensation for the injuries sustained by him in the accident.



C.M.A.Nos.1261 of 2022

4. Before the Claims Tribunal, the claimant examined himself as P.W.1 and a Doctor was examined as P.W.3, Ex.P.1 to Ex.P.27 were filed on the side of the claimant. On the side of respondent, the driver was examined as R.W.1, but no documentary evidence was marked.

5. The Claims Tribunal on an assessment of the entire evidence on record assessed the compensation at Rs. 2,02,000/- along with 7.5% interest and mulcted the liability on the respondent/Transport corporation. Not satisfied with the award passed by the Tribunal, the claimant has preferred the above appeal.

6. The learned counsel for the appellant submitted that the claimant suffered fracture in Left Parasymphysis of Mandible and the Doctor assessed 30% partial and permanent disability. The learned counsel submitted that the Tribunal having adopted unit method ought to have awarded Rs.4,000/- per percentage of disability instead of Rs.3,000/-. The learned counsel further submitted that the award towards other heads was also on the lower side and therefore the same needed to be enhanced.



C.M.A.Nos.1261 of 2022

7. The learned counsel for the respondent/Transport Corporation on the other hand submitted that the award of the Claims Tribunal was just, fair and reasonable and did not call for any interference by this Court.

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

9. It is seen that the claimant suffered fracture of the right angle of mandible and the Doctor had assessed partial and permanent disability at 30%. Therefore, following the Judgment of this Court in the case *M.Chinnathambi Vs S.Deepa* reported in 2020(1) TN MAC 617, Rs.4,000/- per percentage is fixed towards partial and permanent disability. The award under the head 'disability' is therefore assessed at Rs.1,20,000/- ($4000 \times 30\% = 1,20,000/-$) instead of Rs.90,000/- assessed by the Tribunal.

10. It is seen that claimant was hospitalised for a period of six days from 30.05.2015 to 04.06.2015. Considering the nature of injuries, period



C.M.A.Nos.1261 of 2022

of hospitalisation, the award towards Transport charges, extra nourishment and pain and suffering is enhanced. The award under the head attender charges is assessed at Rs.10,000/-.

11. In the light of the above discussions, the award of the Claims Tribunal is modified as follows.

S.No.	Various Heads	Award by Tribunal (amount in Rs.)	Award by this Court (amount in Rs.)
1.	Loss of earning	30,000/-	30,000/-
2.	Transport charges	5,000/-	10,000/-
3.	Extra nourishment	5,000/-	10,000/-
4.	Damages to clothing and articles	1,000/-	1,000/-
5.	Medical expenses	56,000/-	56,000/-
6.	Attender charges	Nil	10,000/-
7.	Loss of amenities in life	Nil	Nil
8.	Pain and suffering	15,000/-	15,000/-
9.	Disability	90,000/-	1,20,000/-
Total compensation		2,02,000/-	2,52,000/-

The claimant would thus be entitled to compensation of Rs.2,52,000/- along with 7.5% interest.

12. It is submitted by the learned counsel for the appellant that the respondent/Transport Corporation has not deposited any amount



C.M.A.Nos.1261 of 2022

before the Tribunal, therefore a direction is issued to the respondent/Transport Corporation to deposit the enhanced compensation along with 7.5% interest from the date of claim petition till the date of deposit within a period of six (6) weeks from the date of receipt of copy of this Judgment. On such deposit being made the claimant is entitled to withdraw the same by making proper application before the Tribunal.

In the result, this Civil Miscellaneous Appeal is partly allowed.

There shall be no order as to costs.

20.06.2022

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Index: Yes/No

Speaking Order: Yes/No

Neutral citation: Yes/No



C.M.A.Nos.1261 of 2022

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The learned Principle Special Judge,
Special Court under E.C. & NDPS Act,
Motor Accidents Claims Tribunal,
Chennai.

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



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C.M.A.Nos.1261 of 2022

N.MALA.,J.

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C.M.A.No.1261 of 2022

20.06.2023

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