



WEB COPY

C.M.A.No.1970 of 20



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.08.2023

CORAM:
THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Civil Miscellaneous Appeal No.1970 of 2023

K.Sathish @ gopinath

... Appellant

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation,
3/137, Salamedu, Vazhuthareddy,
Vilupuram.

... Respondent

PRAYER : The Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 18.11.2022 in MCOP.No.3042 of 2016 on the file of the Motor Accident Claims Tribunal, Special Sub Judge for LAOP Cases (FAC), Cuddalore.

For Appellant : Ms.Ramya V Rao

For Respondent : Mr.S.S.Santhosh Kumar

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant challenging the quantum of compensation awarded by the Tribunal in MCOP.No.3042 of



2016, dated 18.11.2022, on the file of the Motor Accident Claims Tribunal, Special Sub Judge for LAOP Cases (FAC), Cuddalore.

2. The appellant is the claimant in MCOP.No.246 of 2022 on the file of the Motor Accident Claims Tribunal, Special Sub Judge for LAOP Cases (FAC), Cuddalore. He filed the said claim petition claiming a sum of Rs.50,00,000/- as compensation for the greivous injuries sustained by the appellant in the accident that took place on 19.01.2016.

3. According to the appellant, on 19.01.2016 at about 5.00 p.m. while the appellant was riding his two wheeler bearing Registration No.TN-31-BS-8715 nearing Chinnapettai Cross Road on extreme left side of the road, the driver of the bus belonging to the respondent/Transport Corporation drove the same in a rash and negligent manner dashed against the two wheeler of the appellant. Due to the said impact, the appellant sustained multiple injuries. Therefore, the appellant filed the claim petition claiming a sum of Rs.50,00,000/- as compensation.

4. The respondent/Transport Corporation filed counter statement denying all the averments made in the claim petition and stated that the



accident did not happen due to the rash and negligent driving by the driver of the bus belonging to the respondent/Transport Corporation and in any event, the compensation claimed by the appellant is excessive and prayed for dismissal of the claim petition.

5. Before the Tribunal, the appellant examined himself as P.W.1 and marked Exs.P1 to P22. On the side of the respondent/Transport Corporation neither oral nor documentary evidence was adduced. The Disability Certificate issued by the Medical Board is marked as Ex.C-1.

6. The Tribunal considering the pleadings, oral and documentary evidence held that the accident occurred due to the rash and negligent act of the driver of the respondent/Transport Corporation vehicle and directed them to pay a sum of Rs.34,14,666/- as compensation to the appellant. The appellant has preferred the instant appeal, seeking enhancement of compensation.

7. The learned counsel for the appellant submitted though the appellant had established that he was working as Transport Operator and Contractor, the Tribunal had fixed the notional monthly income at



Rs.9,000/- which is meagre and requires enhancement. The learned counsel fairly submitted that the award of the compensation under other heads are just and reasonable and hence, prayed for enhancement of the compensation awarded by the Tribunal.

8. Per contra, the learned counsel for the respondent/Transport Corporation submitted that the award of the Tribunal is just and reasonable and therefore, does not call for any interference and prayed for dismissal of the appeal.

9. Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the respondent/Transport Corporation and perused all the materials available on record before this Court.

10. The only question involved in this case is whether the compensation awarded by the Tribunal is just and reasonable?

11. It is seen that the appellant had examined himself as P.W.1 and stated that he was working as a Transport Operator and Contractor. The accident took place in the year 2016. However, the appellant had not



produced any documentary proof to prove his income. In the facts of the case, considering his age, avocation and the year of accident, this Court is of the view that it would be just and reasonable to fix Rs.10,000/- as monthly notional income. The Tribunal applied multiplier method by fixing the functional disability at 62%. There is no infirmity in the said finding. Hence, the compensation under the head “Permanent Disability” has to be fixed at Rs.10,000/- + Rs.4,000 (40% towards future prospects) = Rs.14,000/- x 12 x 18 x 62% = Rs.18,74,880/-. The award of compensation under the other heads are just and reasonable and the same is confirmed.

12. Thus, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1.	Disability	16,87,392	18,74,880	Enhanced
2.	Pain and suffering	4,20,000	4,20,000	Confirmed
3.	Loss of amenities	50,000	50,000	confirmed
4.	Extra nourishment	45,000	45,000	Confirmed
5.	Attender	45,000	45,000	Confirmed



	charges			
6.	Transport charges	48,000	48,000	Confirmed
7.	Medical bills	10,69,274	10,69,274	Confirmed
8.	Future medical expenses	50,000	50,000	Confirmed
	Total	Rs.34,14,666/-	Rs.36,02,154/-	Enhanced by Rs.1,87,488/-

13. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.34,14,666/- is hereby enhanced to Rs.36,02,154/- together with interest at the rate of 7.5% per annum (excluding the default period, if any) from the date of petition till the date of deposit. The appellant is directed to pay necessary Court fee, if any, on the enhanced compensation. The respondent/Transport Corporation is directed to deposit the modified 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. On such deposit, the appellant is permitted to withdraw the award amount along with interest and costs, after adjusting the amount if any, already withdrawn. No costs.

25.08.2023

Index: Yes/No

Internet: Yes/No

Speaking order: Yes/ No



WEB COPY

C.M.A.No.1970 of 20



To

1.Special Sub Judge for LAOP Cases (FAC),
Motor Accident Claims Tribunal,
Cuddalore.

2.The Section Officer
VR Section
High Court of Madras, Chennai – 600 104.



WEB COPY

C.M.A.No.1970 of 20



SUNDER MOHAN,J.

gba

C.M.A.No.1970 of 2023

25.08.2023