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C.M.A.No.1829 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 31.10.2023

CORAM:

MR. JUSTICE N.SESHASAYEE

C.M.A.No.1829 of 2022
and C.M.P.No.13197 of 2022

The Managing Director
Tamil Nadu State Transport Corporation Ltd.
Kancheepuram
Appellant

...

Vs.

Sivaraman

... Respondent

PRAYER: This Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 24.03.2021 made in M.C.O.P.No.5536 of 2015 on the file of the Motor Accident Claims Tribunal, Principal Special Judge, Special Court under E.C. & NDPS Act, Chennai.

For petitioner : Mr.K.J.Sivakumar

For respondents: Mr.P.Chandrasekaran

JUDGMENT

The State Transport Corporation is challenging an award passed by the Motor Accident Claims Tribunal in M.C.O.P.No.5536 of 2015. The award came to be passed for the injury sustained by the respondent herein when a bus bearing



Reg. No.TN 21 N 1081 dashed against the respondent and also another cyclist.

The respondent suffered grievous injury to his left pelvic bone and the photographs show that his left thigh along with his left groin is seeing smashed or rather crushed. The respondent was admitted in the hospital and his fracture was surgically corrected. In all, he was hospitalised for 27 days.

2.At the relevant time when the accident took place the respondent was working in a private concern and was drawing a salary of Rs.8,000/-. The Doctor who treated him assessed his disability at 40%, but the Tribunal reduced it to 25% and applied 17 as a multiplier and arrived at a compensation for loss of earning capacity at Rs.4,08,000/-. The award reads as below:

<i>Sl.No.</i>	<i>Head</i>	<i>Amount (Rs.)</i>
1	Loss of earning capacity	Rs.4,08,000/-
2	Loss of amenities	Rs. 50,000/-
3	Medical bills	Rs.1,10,086/-
4	Transport to hospital	Rs. 10,000/-
5	Nutritious food	Rs. 13,000/-
6	Attender charges	Rs. 6,750/-
7	Pain and Suffering	Rs. 10,000/-
8	Partial loss of earning	Rs. 24,000/-
	Total	Rs.6,32,336/-

3.Aggrieved by the quantum of compensation awarded under the head 'loss of earning capacity', the State Transport Corporation is before this Court.



4.Learned counsel for the appellant made one pointed statement that as per

Ex.P.2 / the statement of account of the claimant, at the relevant time when the accident took place his salary varied between Rs.8,319/- to Rs.7,934/- and the Tribunal has also taken note of the fact that the respondent's income had jumped to Rs.29,484/- and Rs.30,790/- vide Ex.P.17 to Ex.P19, which are for October 2018 to December 2018. This indicates that the respondent has not suffered any functional disability warranting multiplier method for quantifying the compensation.

5.Per contra, the learned counsel for the respondent submitted that the left thigh along with groin has been badly damaged and the respondent continues to have difficulty in attempting to his daily routines, that he finds difficult to squat and may not be able to do few things which an ordinary person can do. This apart, on conventional heads the Tribunal has awarded very paltry sum.

6.This Court finds merit in the submissions of both. Inasmuch as the respondent is seem to be earning more some four years after the accident, which stands established by Ex.P17 to Ex.P19, it is evident that the nature of injury cannot be treated as resulted in functional disability. Here, this Court does not find any merit for invoking multiplier method. If it were to be treated as a partial



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disability not amounting to functional disability, then this Court does not find any reason in the award for reducing 40% disability to 25%.

7. Given the nature of the injury suffered, without getting into the specifics, this Court deems it appropriate to modify the award of the Tribunal as below:-

<i>Sl. No.</i>	<i>Particulars</i>	<i>Amount granted by the Tribunal</i>	<i>Amount granted by this Court</i>
1	Loss of earning capacity	Rs.4,08,000/-	Rs. 2,00,000/-
2	Loss of amenities	Rs. 50,000/-	Rs. 50,000/-
3	Medical bills	Rs.1,10,086/-	Rs.1,10,086/-
4	Transport to hospital	Rs. 10,000/-	Rs. 25,000/-
5	Nutritious food	Rs. 13,000/-	Rs. 30,000/-
6	Attender charges	Rs. 6,750/-	Rs. 25,000/-
7	Pain and Suffering	Rs. 10,000/-	Rs. 40,000/-
8	Partial loss of earning	Rs. 24,000/-	Rs. 24,000/-
	Total	Rs.6,32,336/-	Rs.5,04,086/-

8. The Civil Miscellaneous Appeal is partly allowed accordingly,

(i) The award of the Tribunal is reduced to Rs.5,04,086/- from Rs.6,32,336/-.

(ii) The interest granted by the Tribunal at 7.5% per annum is confirmed.

(iii) The appellant / State Transport Corporation has deposited 50% of the original award amount as per the directions of this Court. It is now required to deposit the difference amount together with interest at 7.5%, to the credit of M.C.O.P No.5536 of 2015 on the file of the Motor Accident Claims Tribunal,



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Principal Special Judge, Special Court under E.C. & NDPS Act, Chennai,

within a period of eight (8) weeks from the date of receipt of a copy of this order and on such deposit, the respondent / claimant is entitled to withdraw the same on filing necessary application before the Tribunal.

(iv) The appellant / State Transport Corporation is at liberty to withdraw the excess amount if any deposited before the Tribunal.

(v) There will be no order as to costs in this appeal.

(vi) If any excess court fee is paid, the same shall be refunded.

(vii) Consequently, the connected miscellaneous petition is closed.

31.10.2023

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Index : Yes / No

Neutral Citation

To.

The Motor Accident Claims Tribunal
Principal Special Judge
Special Court under E.C. & NDPS Act
Chennai



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