



CMA(MD)No.651 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 17.07.2023

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A(MD)No.651 of 2023

Venkatachalam

.. Appellant

VS.

Tamil Nadu State Transport Corporation Limited,
Through its Managing Director,
Office at No.2, Trivandrum Road,
Vannarapettai,
Tirunelveli.

...Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 to enhance the award amount in MCOP No.1674 of 2015 on the file of the Motor Accident Claims Tribunal, Special Sub Court Dealing with MCOP Cases, Tirunelveli, dated 21.02.2020.

For Appellant : Mr.T.Selvakumaran

For Respondent : Mr.S.Micheal Heldon Kumar



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JUDGMENT

Dissatisfied with the quantum awarded by the Motor Accident Claims Tribunal, Special Sub Court Dealing with MCOP Cases, Tirunelveli, in MCOP No.1674 of 2015 dated 21.02.2020, the claimant has preferred this appeal seeking enhancement of compensation.

2.This is a case of injury. The brief facts of the case are that on 28.10.2015, at about 10.15 a.m, the appellant/claimant was riding his motorcycle bearing Reg.No.TN-76-AY-0941 from west to east on the Ambai-Papanasam main road near Kalyani Theatre at Ambasamudram. At that time, a bus bearing Reg.No.TN-57-N-1801 belonging to the respondent Corporation came from just behind of the motorcycle and grazed the motorcycle. As a result of which, the appellant/claimant lost his control and fell down on the road and sustained injuries and the motorcycle also extensively damaged. The appellant/claimant sustained multiple fractures over the skull besides multiple injuries all over the body. Immediately after the occurrence, he was taken to Government Hospital at Ambasamudram and after first aid, he was taken to Brain &



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Spine Centre at Vannarpettai, Tirunelveli, where he was admitted as inpatient for 15 days. The appellant/claimant underwent surgery and blood clotted inside the brain was removed by inserting tube on the skull. Even after discharge, he is taking treatment till date continuously. According to the appellant/claimant, the offending vehicle is belonging to the respondent Corporation and hence, they are liable to pay the compensation. Therefore, the appellant/claimant filed the claim petition seeking compensation of Rs.12,00,000/-.

3.The learned counsel for the appellant/claimant submitted that though the Tribunal found that the driver of the offending vehicle belonging to the respondent Corporation bearing registration Reg.No.TN-57-N-1801 was responsible for the accident, has awarded lesser compensation of Rs.2,55,990/-, hence, it has to be enhanced.

4.Per contra, the learned counsel appearing for the respondent Corporation submitted that the impugned Judgment and Decree awarding the aforesaid compensation is well reasoned and it requires no



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interference and therefore, this Civil Miscellaneous Appeal is liable to be dismissed.

5.Since there is no dispute with regard to the finding on negligence, it is unnecessary to elaborate on that aspect.

6.Insofar as quantum is concerned, the appellant/claimant has stated that immediately after the accident, he was taken to the Government Hospital, Ambasamudram and after first aid, he was taken to Brain & Spine Centre at Vannarpettai and admitted as inpatient. A sum of Rs.2,00,000/- was incurred towards medicines. However, the Tribunal by considering Ex.P.3, Ex.P.4 and Ex.P.6, has awarded Rs.93,990/- towards medical expenses and no amount has been granted towards future medical expenses. Though the appellant/claimant suffered with brain injury, the Tribunal has awarded only Rs.20,000/- under the head of pain and suffering.



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7.Further, it is seen from the Discharge Summary (Ex.P.2) that the appellant/claimant was admitted as inpatient from 28.10.2015 to 07.11.2015 i.e., 11 days. In view of the injury suffered by him, he has to take assistance of an attendant. However, the Tribunal has awarded Rs. 2,000/-, which is very meagre.

8.It is not in dispute that the appellant/claimant suffered injury in the accident that had taken place on 28.10.2015 and the medical records show that he was continuously taking treatment. Ex.P.3, Ex.P.4 and Ex.P.6 Medical Bills, Ex.P.5 CT Scan Report, Exs.P.2-Discharge Summary and Ex.P8-Disability Certificate were also produced before the Tribunal. Hence, the amount of Rs.20,000/- awarded under the head of pain and suffering is enhanced to Rs.60,000/- and the amount of Rs. 2,000/- awarded towards attendant charges is enhanced to Rs.10,000/-. This Court awards Rs.25,000/- towards future medical expenses. The amount awarded under the other heads were confirmed. The rate of interest fixed by the Tribunal as 7.5% per annum remains unaltered.



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Accordingly, the compensation awarded by the Tribunal to the appellant/claimant is enhanced as follows:-

Heads	Amount awarded by the Tribunal	Re-quantified Amount by this Court	Status
Disability 4000 x 25	1,00,000/-	1,00,000/-	confirmed
Transport Expenses	5,000/-	5,000/-	confirmed
Attendant Charges	2,000/-	10,000/-	enhanced
Pain and Suffering	20,000/-	60,000/-	enhanced
Extra Nourishment	15,000/-	15,000/-	confirmed
Loss of convenience	20,000/-	20,000/-	confirmed
Medical Expenses	93,990/-	93,990/-	confirmed
Future Medical Expenses	Nil	25,000/-	granted
Total	2,55,990/-	3,28,990/-	Enhanced
Rounded off		3,29,000/-	

9.In such view of the matter, this Civil Miscellaneous Appeal is partly allowed. The award amount of Rs.2,55,990/- is enhanced to Rs. 3,29,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of realisation. The appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation. The respondent/Corporation is directed to deposit the modified award amount



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along with interest and costs now determined by this Court, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. Thereafter, the Tribunal is directed to transfer the award amount to the appellant/claimant by way of RTGS to his bank account directly, within a period of three weeks from the deposit being made or from date of furnishing the RTGS particulars by the appellant/claimant, whichever is later. On such deposit, the appellant/claimant is permitted to withdraw the entire award amount along with interest. No costs.

17.07.2023

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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To

1.The Motor Accident Claims Tribunal,
Special Sub Court Dealing with MCOP Cases,
Tirunelveli,

2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

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KRISHNAN RAMASAMY, J.

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Judgment made in

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