



C.M.A.(MD).No.10 of 2023

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 18.04.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

**C.M.A.(MD).No.10 of 2023**

V.Baskaran

... Appellant

*Vs.*

The Managing Director,  
Tamil Nadu State Transport Corporation,  
Head Office, By Pass Road,  
Madurai 16.

... Respondent

**PRAYER:** Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the order dated 13.09.2022 in M.C.O.P.No. 1855 of 2018 on the file of the Motor Accident Claims Tribunal, Special Sub Judge, Madurai.

For Appellant : Mr.K.Kumaravel

For Respondent : No appearance

### **J U D G M E N T**

Challenging the award passed by the Motor Accident Claims Tribunal, Special Sub Judge, Madurai in M.C.O.P.No.1855 of 2018, dated 13.09.2022, the present appeal has been filed by the claimant.



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2. The case of the appellant is that the appellant being an Advocate earning a sum of Rs.75,000/- per month. On 05.06.2008, at about 9.10 p.m., while he was riding his two wheeler bearing Registration No.TN 58 AY 5506 - TVS Star City along with his wife, the bus bearing Registration No. TN 67 N 0905 came from the behind in a rash and negligent manner and dashed against the two wheeler. As a result, he suffered fracture on the right hand wrist and he has been admitted in the hospital from 05.06.2018 to 08.06.2018 and he has also undergone surgery on 06.06.2018 and due to the above accident, he has suffered permanent disability. Hence, he sought for compensation of Rs. 25,00,000/-. The respondent Transport Corporation has disputed the accident.

3. Before the Tribunal, on the side of the petitioner, P.Ws.1 to 3 were examined and Exs.P1 to P19 were marked and on the side of the respondent, R.W.1 was examined and Ex.C1 marked.

4. The Tribunal, considering the evidence of P.Ws.1 to 3 and R.W.1 found that only the driver of the offending vehicle was negligent in driving the vehicle and fixed the liability. However, taking note of the medical report/Ex.C1 and the disability certificate, the Tribunal has awarded a sum of



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Rs.2,71,400/- as compensation in the following manner:

| S. No | Description                                   | Amount awarded by the Tribunal |
|-------|-----------------------------------------------|--------------------------------|
| 1.    | For partial permanent disability (5,000 x 10) | Rs.50,000/-                    |
| 2.    | For loss of income                            | Rs.75,000/-                    |
| 3.    | For pain and suffering                        | Rs.25,000/-                    |
| 4.    | For nutrition                                 | Rs.5,000/-                     |
| 5.    | For medical expenses                          | Rs.99,800/-                    |
| 6.    | For attendant charges                         | Rs.1,600/-                     |
| 7.    | For inconvenience                             | Rs.10,000/-                    |
| 8.    | For transportation                            | Rs.5,000/-                     |
|       | <b>Total</b>                                  | <b>Rs.2,71,400/-</b>           |

Challenging the same, the present appeal has been filed.

5. The learned counsel appearing for the appellant would submit that the appellant is an Advocate and because of the fracture on the right wrist, he has sustained permanent disability. Therefore, he is not in a position to do the ordinary work and always depend on the others for typing and other works. Hence, multiplier method has to be adopted.

6. In the light of the above submissions, now the point for consideration in this appeal is whether the Tribunal is right in awarding compensation in the



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percentage basis instead of multiplier. This Court has perused the disability certificate / Ex.C1 and the disability assessed by the Medical Board is 10% and it is only a partial permanent disability. The injury sustained by the appellant is only a fracture on the right wrist, which has already been set right. Therefore, merely because he has undergone surgery it cannot be said that he suffered permanent disability.

7. In such a view of the matter, the Tribunal has awarded the compensation on the basis of percentage, which does not require any interference and I do not find any merit in the appeal. Hence, the Civil Miscellaneous Appeal is dismissed and the respondent/Transport Corporation is directed to deposit the entire award amount within a period of one month from the date of receipt of a copy of this order. On such deposit, the claimant is permitted to withdraw the same with interest at the rate of 7.5% per annum. No costs.

**18.04.2023**

akv

To

The Motor Accident Claims Tribunal,  
Special Sub Judge,  
Madurai.



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**N.SATHISH KUMAR,J.**

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