



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.908 of 2024

S.Venkatesan

..Appellant

.VS.

The Managing Director,
Tamil Nadu State Transport Corporation,
(Vipm Divn-1) Ltd., 3/317 Salamedu,
Vazhuthareddy Post,
Villupuram – 605 402

..Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the Award and decree made in MCOP No.2096 of 2018, dated 23.04.2022 on the file of the Motor Accident Claims Tribunal/(I Add Sub Judge (FAC) – Cuddalore).

For Appellant : Ms.Ramya V. Rao

For Respondent : Mr.S.Santhosa Kumar

JUDGMENT

The claimant not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP No.2096 of 2018, dated 23.04.2022 has filed this appeal seeking for enhancement of compensation.



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2.The case of the claimant is that on 12.01.2018, he was riding a two wheeler with a pillion rider at Panruti-Kumbakonam Road and at about 11 a.m. near Kedilam bridge, the bus belonging to the respondent Corporation was driven in a rash and negligent manner and it dashed on the two wheeler. As a result of which, the claimant sustained mangled right lower limb with near total amputation at mid thigh level with non viable distal portion with neurovascular injury mid thigh level, undisplaced fracture inter trochanteric of right femur bone, fracture of anterior wall of acetabulum, closed fracture of right forearm both bones. The claimant underwent treatment as an inpatient from 12.01.2018 to 31.01.2018 and three surgeries were performed. The Medical Board assessed the disability at 90% for the whole body. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the bus belonging to the respondent Corporation. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.36,04,752/- under various heads:



S.No	Compensation awarded under the head	Amount (in Rs.)
1.	For Partial permanent disability (Rs.12,600/- x 12 x 90% x 18)	24,49,440
2.	For Transport to Hospital	40,040
3.	For Extra Nourishment	20,000
4.	For Attender's Charge	20,000
5.	For Pain and Sufferings, mental agony	1,00,000
6.	For Loss of Amenities	50,000
7.	For Medical Expenses	8,35,272
8.	For Temporary loss of income (Rs9000/- x 10)	90,000
	Total	36,04,752

5.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

6.The claimant not being satisfied with the quantum of compensation awarded by the Tribunal has filed the present appeal before this Court seeking for enhancement of compensation.

7.Heard Ms.Ramya V. Rao, learned counsel appearing on behalf of the appellant and Mr.S.Santhosa Kumar, learned counsel appearing on behalf of the respondent.



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8.This Court has carefully considered the submissions made on either side and the materials available on record and also carefully gone through the Award passed by the Tribunal.

9.In the instant case, the claimant has lost his right leg above in his knee. The claimant was doing the avocation of Carpenter. Considering the same, the Tribunal came to a conclusion that the claimant has suffered functional disability and therefore, applied the multiplier method. While doing so, the Tribunal had fixed the notional monthly income at Rs.9,000/-. This is on the lower side, considering the fact that the accident had taken place in the year 2018 and the claimant was aged about 23 years at the time of accident. Hence, this Court is inclined to fix the notional monthly income at Rs.12,500/-, 40% added to future prospects, it works out to a sum of Rs.17,500/- (Rs.12,500 + Rs.5000). Hence the compensation under the head of 'Disability' is calculated as follows:

$$\text{Rs.17,500/-} \times 12 \times 18 \times 90\% = \text{Rs.34,02,000/-}$$

10.In view of the above, the compensation granted by the Tribunal under the head of 'Loss of Income' stands deleted.



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11.The claimant would require the assistance of an attender right through his life, considering the consequences of the injuries sustained by him. Therefore, this Court is inclined to increase the compensation under the head of 'Attender Charges' to Rs.50,000/-. This Court is also inclined to increase the compensation under the head of 'Loss of Amenities' to Rs.1,00,000/- The compensation that has been fixed under the other heads are reasonable and it does not require the interference of this Court.

12.In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	For Partial permanent disability (Rs.17,500/- x 12 x 18 x 90%)	34,02,000
2.	For Transport to Hospital	40,000
3.	For Extra Nourishment	20,000
4.	For Attender's Charge	50,000
5.	For Pain and Sufferings, mental agony	1,00,000
6.	For Loss of Amenities	1,00,000
7.	For Medical Expenses	8,35,272
	Total	45,47,272



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13.The compensation awarded by the tribunal at Rs.36,04,752/- is enhanced to Rs.45,47,272/-. The second respondent insurance company is directed to deposit the enhanced compensation of Rs.45,47,272/-, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. Insofar as the enhanced compensation of Rs.9,42,520/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay period of 167 days. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

14.In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

18.06.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
ssr

To

1.The Motor Accident Claims Tribunal
/(I Add Sub Judge (FAC) – Cuddalore).



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2. The Managing Director,
Tamil Nadu State Transport Corporation,
(Vipm Divn-1) Ltd., 3/317 Salamedu,
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N. ANAND VENKATESH., J

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