



Civil Miscellaneous Appeal No.771 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.771 of 2024

M.Ragu
S/o.Mani

... Appellant

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation (VPM) Ltd.,
Koyambedu Bus Terminus,
Chennai - 600 107.

... Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P.No.5516 of 2019, dated 05.07.2023 on the file of Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai.

For Appellant : Mr.K.Balaji

For Respondent : Mr.S.S.Santhosa Kumar
Standing Counsel

JUDGMENT

The appellant/claimant, not being satisfied with the quantum of compensation awarded by the Tribunal, has filed the present appeal seeking for enhancement of compensation against the award passed by



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the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai,
in M.C.O.P.No.5516 of 2019, dated 05.07.2023.

2. The case of the appellant/claimant is that on 12.08.2019 at about 20.30 hours, he was standing in the corner of Puducherry - Chennai East Coast Road, near Othiyur Village. At that point of time, the bus belonging to the respondent transport corporation was driven in a rash and negligent manner and it hit the claimant, as a result, the appellant/claimant sustained the following injuries:

- (a) V-shaped laceration over occipital region 10 x 4 x 2 cms, laceration right elbow.
- (b) Right post rib fracture with Hemothorax, left zygomatic arch fracture and liver laceration, contusion on inferior pole of spleen.

3. The Medical Board assessed the disability at 40% partial permanent disability. The claimant also took treatment as inpatient for nearly 14 days. It is under these circumstances, the claim petition was filed before the Tribunal seeking for compensation.



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4. The Tribunal, on considering the facts and circumstances of the case and on appreciation of evidence, came to a conclusion that the accident had taken place due to the rash and negligent driving on the part of the bus driver belonging to the respondent transport corporation. Having rendered such a finding, the Tribunal proceeded to determine the compensation and awarded total compensation of Rs.70,000/- in the following manner:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Disability	25,000/-
2.	Loss of income	11,000/-
3.	Pain and Sufferings	10,000/-
4.	Attender charges	7,000/-
5.	Loss of amenities	5,000/-
6.	Transportation expenses	5,000/-
7.	Nutrition expenses	5,000/-
8.	Damages to clothes	2,000/-
	Total	70,000/-

The above compensation was directed to be paid with interest at 7.5% p.a.

5. The claimant, not being satisfied with the compensation awarded by the Tribunal, has approached this Court seeking for enhancement of compensation.



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6. Heard learned counsel for appellant/claimant and learned counsel for respondent transport corporation.

7. This Court carefully considered the submissions made on either side and the materials available on record.

8. This Court also carefully went through the award passed by the Tribunal.

9. Learned counsel for appellant submitted that the Tribunal went wrong in considering only 5% towards disability when the Medical Board has fixed the same at 40% partial permanent disability. Learned counsel submitted that loss of income was calculated only for one month whereas the claimant was out of job for more than six months. Therefore, learned counsel submitted that higher compensation must be fixed for loss of income. That apart, learned counsel also questioned the fixation of compensation under the other heads on the ground that the same is on the lower side.



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10. Learned counsel for respondent transport corporation submitted that the Tribunal has properly assigned reasons while fixing compensation and the same does not require the interference of this Court.

11. The injuries that were sustained by the appellant/claimant have been extracted supra. It is these injuries, which were considered by the Medical Board and the disability certificate was given, which was marked as Ex.P8. The doctor was also examined as PW-2 in this regard. The Tribunal has fixed the disability at 5%. For doing so, the only reason that has been assigned by the Tribunal is that the disability percentage has been exaggerated in this case. This Court is not in agreement with such finding rendered by the Tribunal considering the nature of injuries sustained by the claimant. Therefore, this Court is inclined to take the entire 40% disability and calculate per percentage with the notional income.

12. The accident had taken place in the year 2019 and the Tribunal had taken the notional income at Rs.5,000/- The Division Bench of this



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Court in C.M.A.No.3334 of 2021 by order dated 15.06.2022 [Future General India Insurance Company Limited v. Manivannan and others] taking into consideration the raise in the cost of living and considering the fact that the accident had taken place in that case in the year 2017, has fixed Rs.7,000/- per percentage of disability. The same can be applied to the facts of the present case also. In doing so, the total compensation under the head 'disability' works out to Rs.2,80,000/- [7,000 * 40].

13. Insofar as the loss of income is concerned, considering the nature of injuries sustained by the claimant and considering the fact that he was a lorry driver, he would have been out of action for at least three months. Therefore, the compensation under the head 'loss of income' can be fixed at Rs.33,000/- [11,000 * 3]. Insofar as compensation awarded under the heads 'pain and sufferings', 'transportation expenses' and 'nutrition expenses' are concerned, the same is on the lower side and the same is enhanced to Rs.20,000/-, Rs.10,000/- and Rs.10,000/- respectively. The compensation awarded under the other heads are hereby confirmed.



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14. In the light of the above discussion, this Court modifies the compensation in the following manner:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount awarded by the Tribunal (in Rs.)</i>	<i>Amount awarded by this Court (in Rs.)</i>
1.	Disability	25,000/-	2,80,000/-
2.	Loss of income	11,000/-	33,000/-
3.	Pain and Sufferings	10,000/-	20,000/-
4.	Attender charges	7,000/-	7,000/-
5.	Loss of amenities	5,000/-	5,000/-
6.	Transportation expenses	5,000/-	10,000/-
7.	Nutrition expenses	5,000/-	10,000/-
8.	Damages to clothes	2,000/-	2,000/-
	Total	70,000/-	3,67,000/-

15. The compensation awarded by the Tribunal at Rs.70,000/- is enhanced to Rs.3,67,000/-. The respondent transport corporation is directed to deposit the enhanced compensation, 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 is concerned, the deficit court fee, if not paid, shall be paid by the

N.ANAND VENKATESH, J.



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appellant/claimant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

In the result, the Civil Miscellaneous Appeal is allowed in the above terms. No costs.

16.04.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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To

The Motor Accident Claims Tribunal,
IV Court of Small Causes,
Chennai.

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