



C.M.A.No.377 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2024

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.No.377 of 2023

Kumar

...Appellant

Vs

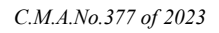
The Managing Director,
Metropolitan Transport Corporation Limited,
Pallavan Salai,
Chennai 600 002.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the compensation granted by the judgment and decree dated 03.11.2022 made in MCOP.No.26 of 2018 on the file of the Special Sub Judge No.1, Motor Accident Claims Petitions, Small Causes Court, Chennai, by allowing the appeal.

For Appellant : Ms.K.Ponmani

For Respondents : Mr.A.Vinoth Raj



This civil miscellaneous appeal has been filed enhance the compensation awarded by the Tribunal vide the judgement dated 03.11.2022 in MCOP.No.26 of 2018.

<i>S.No</i>	<i>Particulars</i>	<i>Compensation (Rs.)</i>
1	Disability	25,000
2	Pain and Sufferings	25,000
3	Transportation	4,000
4	Medical Expenses	74,567
5	Extra Nourishment	10,000
6	Attender Charges	900
7	Loss of Earnings	21,000
8	Loss Amenities	10,000
	Total	1,70,467



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<i>S.No</i>	<i>Particulars</i>	<i>Compensation (Rs.)</i>
	Rounded off to	1,70,500

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3. Further, he would submit that the Government Doctor, who examined the injured had fixed the disability at 30%, whereas, the Tribunal has taken only 5% as functional disability while awarding compensation. Hence, he would contend that if the Tribunal had awarded the compensation by applying multiplier method, it would be just and reasonable to take the functional disability as 5%. However, in the present case, since the accident had occurred in the year 2017 and the Tribunal had decided to award compensation based on the percentage method, the entire percentage of disability, as determined by the Government Doctor, should have been taken by the Tribunal for awarding compensation under the head disability.

4. He would also contend that due to the said accident, the injured was unable to go for regular work for nearly 6 months. However, the Tribunal had awarded very meagre amount as the loss of income. Further, no amount was awarded by the Tribunal for future medical expenses. In the present case, since a steel plate was fixed and the same has to be removed, he would request this



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Court to award compensation towards the future medical expenses.

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5. In reply, the learned counsel appearing for the respondent would submit that in the present case, since the disability was not assessed by the Medical Board, the Tribunal has taken 5% as functional disability and rightly awarded compensation. Further, he would also submit that the loss of income awarded by the Tribunal for 2 months is also just and reasonable and hence, he request this Court to confirm the same.

6. Heard the learned counsel for the appellant and the respondent and also perused the materials available on record.

7. In the present case, it appears that the Government Doctor, who treated the injured had assessed the disability as 30% and issued a certificate, which has been marked by the Court below. Further, the Tribunal had awarded compensation by applying percentage method. In number of cases, this Court had already held that if the compensation is determined based on the percentage method, the entire disability has to be taken into consideration whereas, if the



compensation is awarded based on the multiplier method, the Tribunal shall take the functional disability alone. In such view of the matter, this Court is inclined to consider the entire 30% disability and award the compensation as follows:

$$\text{Rs.5,000 (amount per percentage)} * 30 \text{ (disability)} = \text{Rs.1,50,000/-}$$

8. Further, it appears that the Tribunal had awarded compensation under the head “loss of income” only for a period of 2 months, which is on lower side. Hence, this Court feels that it would be appropriate to award the loss of income for a period of 4 months. It is also appears that no amount was awarded by the Tribunal towards future medical expenses. Hence, this Court is inclined to award a sum of Rs.25,000/- towards future medical expenses. Accordingly, the compensation awarded by the Tribunal is modified as follows:

S.No	Particulars	Compensation awarded by the Tribunal (Rs.)	Compensation awarded by this Court (Rs.)
1	Disability	25,000	1,50,000
2	Pain and Sufferings	25,000	25,000
3	Transportation	4,000	4,000
4	Medical Expenses	74,567	74,567
5	Extra Nourishment	10,000	10,000
6	Attender Charges	900	900



S.No	Particulars	Compensation awarded by the Tribunal (Rs.)	Compensation awarded by this Court (Rs.)
7	Loss of Earnings	21,000	42,000
8	Loss Amenities	10,000	10,000
9	Future Medical Expenses	Nil	25,000
	Total	1,70,467	3,41,467
	Rounded off to	1,70,500	3,41,500

10. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.3,41,500/-. Accordingly, the award amount stands enhanced from a sum of Rs.1,70,500/- to Rs.3,41,500/-. In all other aspects, the award of the Tribunal stands confirmed.

11. In the result, this Civil Miscellaneous Appeal is partly allowed and the appellant/Transport Corporation is directed to deposit a sum of Rs.3,41,500/- along with interest and costs, less the amount already deposited, if any, within a period of 6 weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.26 of 2018 on the file of the Special Sub Judge No.1, Motor Accident Claims Petitions, Small Causes Court, Chennai. Further, the appellant/claimant shall pay necessary Court fee, if any, on the enhanced



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compensation. Thereafter, the Tribunal is directed to immediately transfer the entire amount to the bank account of the claimant by way of RTGS within a period of 3 weeks from the date of deposit and from the date of receipt of the Bank details obtained for the claimant or application for withdrawal from the claimant, whichever is earlier. No costs.

24.01.2024

Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
nsa

To:

The Special Sub Judge No.1,
Motor Accident Claims Tribunal,
Small Causes Court, Chennai



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KRISHNAN RAMASAMY,J.

nsa

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