



Civil Miscellaneous Appeal No.1079 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1079 of 2024

P.Cinnammal

W/o.Vaiyapuri @ Periyasamy

... Appellant

Vs.

The Managing Director,

Tamil Nadu State Transport Corporation Limited,

Salem - 636 004.

... Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 07.04.2021 made in M.C.O.P.No.359 of 2018 on the file of Motor Accident Claims Tribunal, Sessions (Fast Track Mahila) Court, Namakkal.

For Appellant : Mr.M.Lokesh

For Respondent : Mr.D.Nithin

JUDGMENT

The appellant/claimant, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, Sessions (Fast Track Mahila) Court, Namakkal, has filed this appeal against the award passed in M.C.O.P.No.359 of 2018, dated 07.04.2021.



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2. The case of the claimant is that on 30.08.2016, she was walking on the left side of the road towards her residence from Perumal Koil Medu bus stop and at about 07.30 p.m., the bus belonging to the respondent transport corporation was driven in a rash and negligent manner and it hit the claimant, as a result of which the claimant sustained fracture on the right FTP region, multiple abrasions over right maxilla, nose, right shoulder, left knee, left hand dorsum, right leg middle toe and orbital edema was present on the right eye.

3. The claimant underwent treatment as an inpatient for 16 days. The doctor, who treated the claimant, assessed the disability at 55%. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking compensation.

4. 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 due to the rash and negligent driving on the part of the driver of the bus belonging to the respondent transport corporation. Having rendered such a finding, the Tribunal



proceeded to determine the compensation and awarded total compensation of Rs.4,07,600/- under various heads as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of earning power	2,00,000/-
2.	Medical expenses as per exhibit P4	1,85,600/-
3.	Pain and suffering	15,000/-
4.	Extra Nourishment	5,000/-
5.	Transport to hospital	2,000/-
	Total	4,07,600/-

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.

6. Heard Mr.M.Lokesh, learned counsel for appellant/claimant and Mr.D.Nithin, learned counsel for respondent transport corporation.

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



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

9. The Tribunal has applied per percentage method and has restricted the permanent disability to 40%. The Tribunal fixed Rs.5,000/- per percentage. The accident in this case had taken place on 30.08.2016. The Division Bench of this Court in C.M.A.No.3334 of 2021, dated 15.06.2022 [Future General India Insurance Company Limited v. Manivannan and others], has fixed a sum of Rs.7,000/- per percentage for an accident that took place on 27.05.2017. There is not much difference in the time period and therefore, this Court is inclined to award Rs.7,000/- per percentage of disability. Thus, the compensation under the head 'disability' works out to Rs.2,80,000/- [7000 * 40].

10. The claimant has taken treatment as an inpatient for nearly 16 days and therefore, this Court is inclined to increase the compensation under the heads 'transport to hospital' and 'extra nourishment' to Rs.10,000/- and Rs.10,000/- respectively. This Court also finds that no sum has been awarded towards attender charges and a sum of Rs.10,000/- is awarded under this head.



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11. The compensation awarded under the other heads is reasonable and it does not require the interference of this Court.

12. 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.	Loss of earning power	2,00,000/-	2,80,000/-
2.	Medical expenses as per exhibit P4	1,85,600/-	1,85,600/-
3.	Pain and suffering	15,000/-	15,000/-
4.	Extra Nourishment	5,000/-	10,000/-
5.	Transport to hospital	2,000/-	10,000/-
6.	Attender charges	-	10,000/-
	Total	4,07,600/-	5,10,600/-

13. The compensation awarded by the Tribunal at Rs.4,07,600/- is enhanced to Rs.5,10,600/-. 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 six weeks from the date



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N.ANAND VENKATESH, J.

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of receipt of this judgment. Insofar as the enhanced compensation of Rs.1,03,000/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay of 917 days as was ordered by this Court in C.M.P.No.8608 of 2024 in C.M.A.Sr.No.45369 of 2024 dated 16.04.2024. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant. 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 partly allowed. No costs.

24.06.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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To

The Motor Accident Claims Tribunal,
Sessions (Fast Track Mahila) Court,
Namakkal.

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