



Civil Miscellaneous Appeal No.1594 of 2024

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DATED : 11.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1594 of 2024

R.Jambulingam

... Appellant

Vs.

The Managing Director,
Tamil Nadu State Transport corporation limited,
Villupuram
Kancheepuram Division

... Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, by enhancing the compensation awarded in the order dated 07.12.2022, passed in M.C.O.P.No.7612 of 2017 on the file of the Motor Accident Claims Tribunal (In the IV Court of Small causes, Chennai).

For Appellant : Mr.K.Balaji

For Respondent : Mr.S.S.Santhosa Kumar

JUDGMENT

The claimant not being satisfied with the quantum of



compensation has filed this appeal challenging the award passed by the Motor Accident Claims Tribunal (In the IV Court of Small causes, Chennai) in M.C.O.P.No.7612 of 2017 dated 07.12.2022.

2. The case of the claimant is that on 13.10.2017, he was riding a cycle at Wallajabad road from Oragadam to Tambaram side and at about 14.30 hours, he approached near the scene of occurrence at Padappai, the bus belonging to the respondent Corporation was driven in a rash and negligent manner and it dashed on the bicycle of the claimant. As a result of which, the claimant sustained multiple RIB fracture right side with mild haemopneumothorax/ Type IIDM. The claimant underwent treatment as an in patient for nearly 10 days. The Medical Board assessed the partial permanent disability at 25%. 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 Transport Corporation.

4. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.77,463/- (*rounded off to Rs.77,500/-*) under various heads as follows :-

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Disability	Rs.25,000/-
2.	Medical Expenses	Rs.21,963/-
3.	Loss of Income	Rs.10,500/-
4.	Pain and suffering and mental agony	Rs. 5,000/-
5.	Transportation expenses	Rs.5,000/-
6.	Nutrition expenses	Rs.5,000/-
7.	Damages to clothes	Rs.1,000/-
8.	Attender charges	Rs.4,000/-
	Total	Rs.77,463/-

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



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4. The claimant not being satisfied with the quantum of compensation fixed by the Tribunal has filed this appeal seeking for enhancement of compensation.

5. Heard Mr.K.Balaji, learned counsel for appellant/ claimant and Mr.S.S.Santhosa Kumar, learned counsel for respondent/Transport Corporation.

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

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

8. In the instant case, the Medical board had assessed 25% partial permanent disability. The Tribunal decided to apply the per percentage method. However, while doing so, the disability was reduced to 5% and Rs.5,000/- was fixed per percentage. There is no reason for reducing the percentage in this case and the amount fixed is also on the



lower side.

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9. In view of the above, this Court is inclined to fix Rs.7,000/- per percentage. Thus, the compensation under the head of disability is fixed at Rs.1,75,000/- ($7,000/- \times 25$) under the head of disability.

10. The claimant was undergoing treatment as an in patient for nearly 10 days and the claimant was aged about 63 years at the time of the accident and he was working as a helper. There was no evidence before the Tribunal regarding the avocation of the claimant and the monthly income earned by him. Therefore, the Tribunal fixed a sum of Rs.10,500/- towards loss of income. Considering the injuries sustained, this Court is inclined to enhance the compensation under this head to $\text{Rs.10,500/-} \times 3 = \text{Rs.31,500/-}$.

11. The compensation that has been fixed under the head of pain and sufferings, transportation expenses, Extra nourishment and Attendar charges are on the lower side and the same is enhanced to Rs.20,000/-, 10,000/-, Rs.15,000/- and Rs.7,500/- respectively.



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 (in Rs.)</i>
1.	Disability	Rs.1,75,000/-
2.	Medical Expenses	Rs.21,963/-
3.	Loss of Income	Rs..31,500/-
4.	Pain and suffering and mental agony	Rs. 20,000/-
5.	Transportation expenses	Rs.10,000/-
6.	Nutrition expenses	Rs.15,000/-
7.	Damages to clothes	Rs.1,000/-
8.	Attender charges	Rs.15,000/-
	Total	Rs.2,89,463/-

16. The compensation awarded by the Tribunal at Rs.77,463/- is enhanced to Rs.2,89,463/-. The learned counsel for respondent Corporation submitted that the entire compensation has already been deposited with interest. In view of this submission, the respondent corporation is directed to deposit the enhanced compensation amount of



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Rs.2,12,000/-, 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. On receipt of such deposit, the claimant shall be permitted to withdraw the same. Insofar as the enhanced compensation of Rs.2,12,000/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay of 398 days as was ordered by this Court in C.M.P.No.10141 of 2024, dated 14.06.2024. 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 allowed in the above terms. No costs.

11.07.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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N.ANAND VENKATESH.,J
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To,
Motor Accident Claims Tribunal (In the IV Court of Small causes,
Chennai).

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