



C.M.A.Nos.2574 of 2019 & 241 of 2021

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.Nos.2574 of 2019 & C.M.A.No.241 of 2021

and

C.M.P.Nos.1538 & 421 of 2021

In C.M.A.No.2574 of 2019:

Selvaraj

... Appellant/Petitioner

Vs.

The Managing Director

M/s. Tamil Nadu State Transport Corporation

(Kumbakonam) Ltd. Collector Office Road,

Periyamilaguparai, Trichy -1

... Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgement and decree passed by the Motor Accidents Claims Tribunal and Chief Judicial Magistrate, Perambalur by its order dated 06.03.2019 made in M.C.O.P.No.227 of 2017.

For Appellant : Mr.G.Sangamithran

For Respondent : Mr.Murali Vinoth



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In C.M.A.No.241 of 2021:

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The Managing Director
M/s. Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd. Collector Office Road,
Periyamilaguparai, Trichy -1 ... Appellant/Respondent

Vs.

Selvaraj ... Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgement and decree passed by the Motor Accidents Claims Tribunal and Chief Judicial Magistrate, Perambalur by its order dated 06.03.2019 made in M.C.O.P.No.227 of 2017.

For Appellant : Mr.Murali Vinoth

For Respondent : Mr.G.Sangamithran

COMMON JUDGEMENT

Since, both the appeals are arising out of the very same accident, these appeals are disposed by way of this common judgment.

2. Challenging the award dated 06.03.2019 made in M.C.O.P.No.227 of 2017 on the file of the Chief Judicial Magistrate,



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Motor Accidents Claims Tribunal, Perambalur, the claimant as well as the transport corporation has come up with these appeals.

3. For brevity, the appellant in CMA.No.2574 of 2019 is hereinafter referred to as the claimant and the appellant in CMA.No.241 of 2021 is hereinafter referred to as the transport corporation.

4. It is the case of the claimant that, on 14.11.2016 at about 12.20 hours, when the claimant was riding a TVS 50 XL two wheeler bearing Regn.No.TN-46-A-1480 at Venkatesapuram in front of Sugam Dental Hospital from West to East direction, at that time, the Transport Corporation Bus bearing Regn.No.TN-45-N-2812 driven by its driver came in a rash and negligent manner and hit the two wheeler driven by the claimant, due to which, he sustained grievous injuries and admitted in the hospital. Thereby, the claimant filed a claim petition claiming a compensation of Rs.15,00,000/-. Before the Tribunal, the claimant examined himself as P.W.1 and marked Ex.P1 to P8 and on behalf of the transport corporation, one witness viz., R.W.1 was examined and no documents were marked and the Disability Certificate issued by the



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Medical Board was marked as Court document viz., Ex.C1. After trial, the Tribunal awarded a sum of Rs.9,19,000/- towards compensation for the injuries sustained by the claimant. For enhancement of the said compensation, the claimant has filed an appeal in CMA.No.2574 of 2019 and aggrieved by the higher compensation fixed, the transport corporation has filed the appeal in CMA.No.241 of 2021.

5. Heard learned counsel on either side and perused the material documents placed on record.

6. The factum and the manner of the accident is not in dispute. Since the appeals are filed solely challenging the quantum of compensation awarded by the Tribunal, this Court is not venturing into the aspect of negligence and liability fixed by the tribunal.

7. Insofar as the quantum of compensation awarded by the tribunal is concerned, both the learned counsel for the claimant as well as the learned counsel appearing on behalf of the Transport Corporation fairly submitted that, there was a double claim with regard to medical



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bills and as a result, a sum of Rs.1,10,000/- has been awarded in excess by the tribunal under the head Medical expenses and thereby, this Court may reduce the said amount of Rs.1,10,000/- from the compensation of Rs.7,45,000/- awarded by the tribunal under the said head.

8. In view of the above submission made by the learned counsel on either side in respect of the compensation under the head medical expenses, this Court is inclined to reduce the same from Rs.7,45,000/- to Rs.6,35,000/-, as there was double claim.

9. At the same time, the accident is of the year 2016 and due to the above said accident, the claimant suffered disability of 30%, however, by erroneously adopting a sum of Rs.3,000/- per percentage of disability, the tribunal awarded a sum of Rs.90,000/-, which is meagre and as per the existing law at the relevant point of time, the Tribunal ought to have fixed a sum of Rs.6,000/- per percentage of disability. Hence, the amount under the head Disability stands enhanced to a sum of Rs.1,80,000 /- (30% x Rs.6,000/- = Rs.1,80,000/-).



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10. Insofar as the compensation awarded under other heads are concerned, the tribunal had awarded a sum of Rs.20,000/- and Rs.10,000/- under the heads Pain and sufferings and Extra nourishment respectively, which are on the lower side and thereby, the same is enhanced to Rs.40,000/- and Rs.20,000/- respectively.

11. Insofar as the compensation awarded by the tribunal under the other heads are concerned, this Court is of the view that, on the basis of proper appreciation of the evidences and considering the nature of injuries suffered by the claimant, the tribunal had rightly awarded the compensation under the respective heads, which need not be interfered with.

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

<u>S.N o.</u>	<u>Description</u>	<u>Awarded by the Tribunal (Amount in Rs.)</u>	<u>Awarded by this Court (Amount in Rs.)</u>
1	Medical Expenses	Rs.7,45,000/-	6,35,000/-



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<u>S.N</u> <u>o.</u>	<u>Description</u>	<u>Awarded by</u> <u>the Tribunal</u> <u>(Amount in</u> <u>Rs.)</u>	<u>Awarded by</u> <u>this Court</u> <u>(Amount in</u> <u>Rs.)</u>
			(reduced)
2	Loss of income for 4 months	Rs.24,000/-	24,000/-
3	Disability	Rs.90,000/-	1,80,000/- (enhanced)
4	Transportation	Rs.15,000/-	15,000/-
5	Pain and Sufferings	Rs.20,000/-	40,000/- (enhanced)
6	Extra Nourishment	Rs.10,000/-	20,000/- (enhanced)
7	Attendant charges	Rs.15,000/-	15,000/-
	Total	9,19,000/-	9,29,000/-

13. Accordingly, the appeal in CMA.No.241 of 2021 filed by the transport corporation stands **dismissed** and the appeal in CMA.No.2574 of 2019 filed by the claimant stands **allowed in part** and the compensation awarded by the tribunal is modified by enhancing the same from **Rs.9,19,000/- to Rs.9,29,000/-** and the respondent-Transport Company is directed to deposit the above said compensation amount, awarded by this Court to the credit of M.C.O.P.No.227 of 2017 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less the



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amount, if any already deposited, within a period of six weeks (6) from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the claimant through RTGS within a period of two weeks thereafter, upon production of proof with regard to payment of court fee for the enhanced compensation. It is underscored that, the claimant is not entitled for interest for default period, if any. There shall be no order as to costs in the present appeal. Consequently, the connected miscellaneous petition is closed.

28.11.2024

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To



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1. Motor Accidents Claims Tribunal and Chief Judicial Magistrate,
Perambalur

2. The Section Officer,
V.R. Section, High Court, Madras.

M.DHANDAPANI, J.,



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