



Civil Miscellaneous Appeal No.1747 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1747 of 2023

Esakkimuthu

S/o.Mariappan

... Appellant

Vs.

The Managing Director,
M/s.Tamil Nadu State Transport
Corporation (Madurai) Ltd.,
Bye-pass road, Madurai - 625 010.

... Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 04.07.2022 made in M.C.O.P.No.574 of 2018 on the file of Motor Accident Claims Tribunal, Special Subordinate Judge, Erode.

For Appellant : Mr.T.S.Arthanareeswaran

For Respondent : Mr.C.Gowtham Raj

JUDGMENT

The appellant/claimant, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, Special Subordinate Judge, Erode, in M.C.O.P.No.574 of 2018, dated 04.07.2022, has filed the present appeal seeking for enhancement of compensation.

2. The case of the claimant is that he was riding a two wheeler on



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29.05.2016 at Tenkasi to Rajapalayam NH 208 and at about 11.45 a.m., when the vehicle was nearing Thalavaipuram Pirivu Road, the offending vehicle belonging to the respondent transport corporation which was driven in a rash and negligent manner, hit the two-wheeler of the claimant and as a result of which the claimant fell down and sustained multiple injuries. The claimant sustained 'Pan Facial # (L) ZMC # with ARCH Orif (L) Angle of Mouth # Symphysis #'. The Medical Board, on assessment of disability, found that the claimant suffers from 10% disability. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for 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 due to the rash and negligent driving 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.1,45,000/- in the

following manner:



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Sl. No.	Compensation awarded under the head	Amount (in Rs.)
1.	Permanent disability & loss of earning power	50,000/-
2.	Pain and sufferings	50,000/-
3.	Loss of earnings	21,000/-
4.	Extra nourishment	7,000/-
5.	Transport to Hospital	7,000/-
6.	Attender charges	5,000/-
7.	Damages for clothes and articles	5,000/-
8.	Future Medical Expenses	Nil
9.	Medical Expenses	Nil
	Total	1,45,000/-

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

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

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

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



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

8. In the considered view of this Court, the compensation fixed under certain heads is on the lower side and it requires enhancement. The claimant in this case was involved in the avocation of mason and he was aged about 28 years at the time of the accident. That apart, he has also taken treatment as an inpatient for nearly 20 days. In view of the same, this Court is inclined to increase the compensation under the head 'loss of earnings' to Rs.60,000/- [10000 x 6]. This is in view of the fact that considering the nature of injuries sustained by the claimant, he would have been out of action for at least 6 months. Considering the avocation, the notional income can be safely fixed at Rs.10,000/-.

9. The compensation awarded under the heads 'transport to hospital', 'extra nourishment' and 'attender charges' is on the lower side and the same is enhanced to Rs.10,000/-, Rs.20,000/- and Rs.10,000/- respectively.



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10. The compensation awarded under the other heads are justified and does not require the interference of this Court.

11. 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.	Permanent disability & loss of earning power	50,000/-	50,000/-
2.	Pain and sufferings	50,000/-	50,000/-
3.	Loss of earnings	21,000/-	60,000/-
4.	Extra nourishment	7,000/-	20,000/-
5.	Transport to Hospital	7,000/-	10,000/-
6.	Attender charges	5,000/-	10,000/-
7.	Damages for clothes and articles	5,000/-	5,000/-
8.	Future Medical Expenses	Nil	Nil
9.	Medical Expenses	Nil	Nil
	Total	1,45,000/-	2,05,000/-

12. The compensation awarded by the Tribunal at Rs.1,45,000/- is enhanced to Rs.2,05,000/-. 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



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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 of Rs.60,000/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay of 171 days as was ordered by this Court in C.M.P.No.11591 of 2023, dated 24.07.2023. 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.

18.04.2024

Speaking Judgment/Non-speaking Judgment
Index : Yes/No
Neutral citation: Yes/No
gm

To

The Motor Accident Claims Tribunal,
Special Subordinate Judge,
Erode.



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N.ANAND VENKATESH, J.

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