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CMA.No.2157 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.2157 of 2024

G. Kamaraj

.... Appellant

vs.

The Managing Director,
MTC Limited,
Pallavan House, Anna Salai,
Chennai 600 002.

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 24.11.2023 in M.C.O.P.4070/2021 on the file of the Special Subordinate Court No.II, Motor Accidents Claims Tribunal, Court of Small Causes, Chennai.

For Appellant : Mr. R. Mohan Babu

Respondent : Mr. M. Murali Vinoth



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J U D G M E N T

The appellant is the claimant in M.C.O.P.4070/2021 on the file of the Special Subordinate Court No.II, Motor Accidents Claims Tribunal, Court of Small Causes, Chennai, and he filed the claim petition under Section 166(1) of the Motor Vehicles Act, 1988 seeking compensation of Rs.26,00,000/- for the injuries sustained by him in a road accident that took place on 26.08.2021.

2. The case of the claimant is that on 26.08.2021 he was riding his motorcycle bearing Registration Number TN-20-BP-5924 on Koyambedu 100 feet Road. When he was nearing Vignesh TAT Transport, a bus belonging the Metropolitan Transport Corporation bearing Registration Number TN-01-AN-3282, came in the opposite direction and hit him as a result of which he fell down and sustained injuries all over his body. He was immediately rushed to the hospital.

2.1. According to the claimant, the rash and negligent driving of the driver of the Metropolitan Transport Corporation bus bearing



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Registration Number TN-01-AN-3282, was the cause of the accident and therefore, they are liable to pay compensation to him.

3. The second respondent Transport Corporation contested the claim petition by filing its counter.

4. The Tribunal, after analysing the evidence on record, directed the respondent Transport Corporation to pay compensation of Rs.8,20,000/- to the appellant/claimant together with interest at the rate of 7.5% per annum from the date of the petition till the date of realisation, vide its orders dated 24.11.2023.

5. Aggrieved over the quantum of compensation awarded by the Tribunal, the claimant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

6. Heard Mr. Mohan Babu, learned counsel for the appellant and Mr.S. Murali Vinth, learned counsel for the respondent/Transport Corporation.



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7. Mr. R. Mohan Babu, learned counsel for the appellant contended that though the claimant sustained 40% of partial permanent disability, the Tribunal had not awarded just compensation. He therefore prayed for overall enhancement of compensation.

8. Per contra, Mr. M. Murali Vinoth, learned counsel appearing respondent/Transport Corporation contended that the Award passed by the Tribunal is based on the well laid down principles of law which were in vogue at the time of passing of the order and therefore, the same need not be disturbed.

9. In the instant case, the claimant was working as a Sub Inspector of Police and he sustained the following injuries as per the Discharge summary (Ex.P4).

"Fracture left proximal humerus.

Comminuted fracture left scapula.

D4 vertebral fracture.

Left side multiple rib fracture with minimal haemo-pneumo



thorax."

The Medical Board attached to Government Stanley Medical College Hospital, Chennai, has assessed the partial permanent disability of the claimant as 40%. The Tribunal has awarded Rs.5,000/- per percentage of disability since there was no functional disability. The age of the claimant was 57 years and the accident took place in the year 2021. Considering the same, awarding Rs.7,000/- per percentage would meet the ends of justice.

9.1. Mr. R. Mohan Babu, learned counsel for the appellant contended that the claimant was on medical leave for about six months and therefore, his salary for six months should be paid as compensation. It is seen from the records that the claimant was sanctioned medical leave for six months by the concerned authorities. Therefore, no amount can be awarded towards loss of income.

9.2. The following tabular column would show the amount awarded by the Tribunal and the enhanced amount awarded by this Court under various heads.



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S.No.	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)
1.	Disability	2,00,000/- (40x5000)	2,80,000/- (40x7000)
2.	Pain and sufferings	40,000/-	50,000/-
3.	Loss of Income	-	-
4.	Medical expenses	5,51,000/-	5,51,000/-
5.	Attender charges	4,000/-	10,000/-
6.	Transportation charges	5,000/-	5,000/-
7.	Loss of amenities	10,000/-	10,000/-
8.	Extra nourishment	10,000/-	10,000/-
	Total	8,20,000/-	9,16,000/-

9.3. Thus, the compensation awarded by the Tribunal is enhanced from Rs.8,20,000/- to Rs.9,16,000/- which would carry interest at the rate of 7.5% per annum.

10. In the result,

- The Civil Miscellaneous Appeal is partly allowed. No costs.
- The compensation awarded by the Tribunal is enhanced from Rs.8,20,000/- to Rs.9,16,000/- .
- The appellant / claimant is directed to pay court fee for the



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enhanced compensation amount, if any, and the Registry is directed to draft the decree only after receipt of Court fee.

- iv. The Respondent, the Metropolitan Transport Corporation Limited, Chennai, is directed to deposit the enhanced compensation amount, i.e., Rs.9,16,000/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.4070 / 2021 on the file of the Special Subordinate Court No.II, Motor Accidents Claims Tribunal, Court of Small Causes, Chennai, within a period of four weeks from the date of receipt of a copy of this order.
- v. On such deposit being made, the appellant/claimant is at liberty to withdraw the same, after following due process of law.

04.09.2024

Index : Yes/No
Speaking/Non-speaking order
bga
To

1. Special Subordinate Court No.II, Motor Accidents Claims Tribunal,



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Court of Small Causes, Chennai

2. The Managing Director

MTC Limited

Pallavan House, Anna Salai,
Chennai 600 002

3. The Section Officer, VR Section, Madras High Court, Chennai.



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R.HEMALATHA, J.

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