



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.120 of 2022
and CMP No.863 of 2022

The Managing Director
Tamil Nadu State Transport Corporation Limited,
Villupuram.

..Appellant

.VS.

Lokesh

..Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the judgment and Decree dated 19.11.2019 passed in MCOP No.355 of 2019 on the file of the Motor Accidents Claims Tribunal, Special Sub Court-II (FAC)-Villupuram (MCOP No.688 of 2015 in Principal Sub Court, Villupuram).

For Appellant : Mr.S.S.Santhosakumar

For Respondent : Mr.C.Munusamy

JUDGMENT

This civil miscellaneous appeal has been filed by the Transport Corporation questioning the compensation amount fixed by the Motor Accident Claims Tribunal, Villupuram in MCOP 355 of 2019 dated 19.11.2019.



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2.The respondent who was studying in the II year B.Tech., course was traveling in the bus owned by the Transport Corporation and was going from Chennai to Hosur. When the bus was nearing Ambur, it was driven in a rash and negligent manner and as a result, the bus hit the median and further dashed upon the lorry that was parked in the corner of the road. In view of this accident, the respondent sustained injuries resulting in right tibia fracture and fracture of over Dorsum right foot. It is under these circumstances, the claim petition came to be filed by the respondent seeking for compensation against the Transport Corporation.

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of evidence, fixed the total compensation of Rs.3,54,000/- and fixed the compensation under various heads as follows:

Compensation awarded under the head	Amount (in Rs.)
Disability	194400
Pain and suffering	50000
Extra nourishment	15000
Damage to clothes	1000
Medical Expenses	38244
Transport Expenses	20000
Attender charges	20000



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Compensation awarded under the head	Amount (in Rs.)
Future Medical Expenses	15000
Total	3,53,644 Rounded off as Rs.3,54,000/-

4.The Transport Corporation has filed this appeal questioning the quantum of compensation that has been fixed by the Tribunal.

5.This Court has carefully considered the submissions made on either side and the materials available on record and also carefully gone through the Award passed by the Tribunal.

6.It is seen that the disability that has been suffered by the respondent/claimant has been assessed at 17%. There is absolutely no material available to show that by virtue of the injury, the claimant suffered functional disability. Therefore, the Tribunal could have fixed the compensation under the head 'Disability' only by calculating per percentage on notional income fixed. However, the Tribunal has proceeded to fix the compensation by adopting the multiplier method. As a result, under the head of disability, the Tribunal has fixed a total sum of Rs.1,94,400/- ($\text{Rs.}9000 \times 12 \times 10/100$) = 10,800 x 18 multiplier. This procedure followed by the



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Tribunal, on the face of it is illegal. There is no question of applying the multiplier in a case where the injured was not able to prove that he has suffered functional disability due to the accident.

7. In view of the above discussion, the compensation that was fixed under the head disability is liable to be interfered. The disability has been assessed 17% and taking the notional income as Rs.6,000/-, the total compensation that can be granted under this head will be Rs.1,02,000/- (Rs.6000 x 17).

8. There is yet another illegality found in the Award passed by the Tribunal. The Tribunal has also calculated future prospects and added a sum of Rs.3,000/- along with Rs.6,000/- There is no question of adding future prospects in a case of injury and more particularly, considering the nature of injury that was sustained by the claimant.

9. The Tribunal has combined the heads of disability and loss of income into one and calculated as Rs.1,94,400/- Hence, loss of income will have to be calculated separately. Considering the fact that the claimant had undergone treatment as an inpatient for nearly 63 days and his notional income is taken as Rs.6000/-, the total loss of income can be fixed at Rs.18,000/- (Rs.6000 x 3 months).



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10. Apart from the above modifications, this Court is not inclined to interfere with the compensation that has been fixed under the other heads.

11. In the light of the above discussion, the compensation fixed by the Tribunal is modified as follows:

Compensation awarded under the head	Amount in Rs.
Disability	60,000
Loss of Income	18,000
Pain and suffering	50,000
Extra nourishment	15,000
Damage to clothes	1,000
Medical Expenses	38,244
Transport Expenses	20,000
Attender charges	20,000
Future Medical Expenses	15,000
Loss of income	18,000
Total	2,37,244

12. The above modified compensation along with interest at the rate of 7.5% from the date of filing of the petition within the date of realization shall be paid to the respondent/claimant, within a period of six weeks from the date of receipt of copy of this order. The mode of payment of the compensation has already been indicated in the Award and the same shall be followed.



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N. ANAND VENKATESH., J

ssr

13.In the result, this civil miscellaneous appeal is disposed of in the above terms. No Costs. Consequently, connected miscellaneous petition is closed.

03.04.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
ssr

To

The Motor Accidents Claims Tribunal,
Special Sub Court-II (FAC)-Villupuram

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