



**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 16.04.2024**

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**CORAM**

**THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH**

**CMA No.2345 of 2022**

R.Periyasamy

..Appellant

.VS.

The Managing Director  
Tamil Nadu State Transport Corporation Ltd.,  
No.12, Ramakrishna Road  
Salem – 7.

..Respondent

**Prayer:** Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the order made in MCOP No.192 of 2016, dated 27.08.2021 on the file of the Motor Accident Claims Tribunal (Special Subordinate Judge No.II for MCOP Cases), Salem.

For Appellant : Mr.M.Mohammed Riyaz

For Respondent : Mr.Nitin

**JUDGMENT**

The claimant not being satisfied with the quantum of compensation fixed by the Tribunal has filed this appeal against the Award passed by the Motor Accident Claims Tribunal, Salem in MCOP No.192 of 2016, dated 27.08.2021.



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2.The case of the claimant is that on 15.11.2015, the claimant was waiting in the bus stand in front of Sivasakthi Nagar bus stop in order to go to Jalagandapuram and at about 11.40 a.m., when the claimant was trying to get into the bus, the bus was taken off and as a result, the claimant fell down from the bus and sustained the following injuries:

1.Grade III B compound fracture medical malleolus left side

2.Grade III B compound fracture both bone leg D/3 right

3.The injuries sustained by the claimant was assessed by the Medical Board and it was fixed at 20% permanent disability. It is under these circumstances, the claim petition was filed before the Tribunal seeking for payment of compensation.

4.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 of the bus belonging to the respondent Corporation. After having reached such a conclusion, the Tribunal proceeded to determine the compensation under various heads and the total compensation of Rs.2,56,750/- was fixed in the following manner:



| S.No | Compensation awarded under the head  | Amount (in Rs.) |
|------|--------------------------------------|-----------------|
| 1.   | Permanent Disability (20% x Rs.4000) | 80,000          |
| 2.   | Pain and Sufferings                  | 20,000          |
| 3.   | Loss of Amenities                    | 20,000          |
| 4.   | Medical Expenses                     | 33,750          |
| 5.   | Loss of Income (Rs.7000/- x 6)       | 42,000          |
| 6.   | Transportation Charges               | 15,000          |
| 7.   | Extra Nourishment                    | 15,000          |
| 8.   | Attender Charges                     | 30,000          |
| 9.   | Damages to Clothes                   | 1,000           |
|      | <b>Total</b>                         | <b>2,56,750</b> |

5.The above compensation was directed to be paid with 7.5% interest per annum.

6.The claimants not being satisfied with the quantum of compensation fixed by the Tribunal has filed the present appeal seeking for enhancement of compensation.

7.Heard Mr.M.Mohammed Riyaz, learned counsel appearing on behalf of the appellant and Mr.Nitin, learned counsel appearing on behalf of the respondent.

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



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9. The main ground that was urged by the learned counsel for the appellant was that the Tribunal ought to have adopted the multiplier method considering the fact that the avocation of the claimant was a Mason and due to the accident and the injuries sustained, he will not be able to carry out his avocation and there is a permanent disability assessed by the Medical Board at 20%.

10. The learned counsel for the respondent Corporation submitted that the claimant did not prove functional disability in this case and therefore, the Tribunal had adopted per percentage method and sufficient reason has also been given in this regard. Therefore, the Award passed by the Tribunal does not require the interference of this Court.

11. The injuries that were sustained by the appellant has already been referred *supra*. The Medical Board on assessment of these injuries found that the appellant will have difficulty in sitting cross legged, squatting and limp while walking with raw area over left ankle.

12. Insofar as assessing functional disability, the Court has taken into consideration the avocation of the claimant and also the disability that has been suffered due to the injuries sustained. In the instant case, the appellant was a Mason and if he is not able to sit cross leg and squat, he will not be able to effectively perform his avocation as a



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Mason. Therefore, the injuries sustained has resulted in functional disability to the appellant. Therefore, the Tribunal ought to have adopted the multiplier method instead of per percentage method.

13. In the light of the above, the compensation under the head of 'Permanent Disability' is fixed in the following manner. The monthly notional income has been fixed at Rs.7000/- by the Tribunal. As per Ex.P7, the age of the injured was 40 years. Therefore, 40% must be added towards future prospects which come to Rs.2800/- Therefore, the total income will come to Rs.9,800/- (Rs.7000/- + Rs.2800/-). Since the claimant is aged about 40 years, 15 multiplier can be applied. Thus, the total compensation will work out to Rs.3,52,000/- (Rs.9800 x 12 x 15 x 20%). In the light of adopting the multiplier method, the claimant will not be entitled for compensation under the head of 'Loss of Income'. The compensation that has been fixed under other heads looks reasonable and it can be sustained as such.

14. In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:

| S.No | Compensation awarded under the head               | Amount (in Rs.) |
|------|---------------------------------------------------|-----------------|
| 1.   | Permanent Disability (Rs.9800 x 12 x 15 x 20/100) | 3,52,800        |
| 2.   | Pain and Sufferings                               | 20,000          |
| 3.   | Loss of Amenities                                 | 20,000          |



| S.No | Compensation awarded under the head | Amount (in Rs.) |
|------|-------------------------------------|-----------------|
| 4.   | Medical Expenses                    | 33,750          |
| 5.   | Transportation Charges              | 15,000          |
| 6.   | Extra Nourishment                   | 15,000          |
| 7.   | Attender Charges                    | 30,000          |
| 8.   | Damages to Clothes                  | 1,000           |
|      | <b>Total</b>                        | <b>4,87,550</b> |

15.The compensation awarded by the tribunal at Rs.2,56,750/- is enhanced to Rs.4,87,550/-. 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 petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

16.In the result, the Civil Miscellaneous Appeal is disposed of in the above terms.

No costs.

**16.04.2024**

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

To



The Motor Accident Claims Tribunal  
(Special Subordinate Judge No.II for MCOP Cases), Salem.

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**N. ANAND VENKATESH., J**

SSR

**CMA No.2345 of 2022**

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