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C.M.A.No.3292 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.3292 of 2024

A.Kannan

... Appellant

Vs.

1.S.Selvan

2.The Managing Director,

Tamilnadu Transport Corporation limited,

Coimbatore Division – 37, Mettupalayam Road,

Coimbatore – 641 043.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 12.01.2024 made in M.C.O.P.No.550 of 2022 on the file of the Motor Accident Claims Tribunal, Special District Court, Coimbatore.

For Appellant : Mr.R.Suresh

For Respondents : Notice dispensed with [R1]
Mr.Murali Vinoth [R2]

JUDGMENT

The above appeal is filed by the petitioner/claimant seeking an enhancement of the compensation awarded by the Motor Accidents



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Claims Tribunal, Special Sub Court, Coimbatore in M.C.O.P.No.550 of 2022 dated 12.01.2024.

2. In view of the judgment, which is going to be passed in this appeal, notice to the 1st respondent is dispensed with.

3. The case of the appellant/claimant is that, on 20.03.2021 at about 04.30 p.m., he was riding the Bajaj Pulsar motorcycle bearing Regn.No.TN-43- -0013 on the left side on the Atarli to Coonoor Road in front of Haridoss Company from North to South direction carefully and cautiously. At that time, 1st respondent driven the TNSTC Bus bearing Regn.No.TN-43-N-0734, owned by the 2nd respondent, in a rash and negligent manner and dashed against the appellant's motorcycle, as a result, he fell down and sustained multiple grievous injuries. Therefore, the appellant had filed a claim petition claiming a sum of Rs.20,00,000/- for the injuries sustained by him in the said road accident.

4. Before the Tribunal, the appellant had examined himself as P.W.1 and marked 14 documents viz., Ex.P.1 to Ex.P.14. No witnesses were examined nor any documents were marked on the side of the respondents. Apart from that, one court document was marked as Ex.C.1. After adjudication, the Tribunal awarded a sum of Rs.3,25,000/- as



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compensation to the appellant. Not satisfied with the same, the appellant has preferred the present appeal seeking enhancement.

5. Learned counsel appearing for the appellant submitted that, the Medical Board had assessed the disability of the appellant at 30% and by accepting the same, the Tribunal had awarded a sum of Rs.1,50,000/- by erroneously fixing a sum of Rs.5,000/- per percentage of disability, which is wholly unsustainable, which requires to be re-considered by this court, since the accident had happened in the year 2018 and at the relevant point of time, per percentage of disability is Rs.8,000/-. Further, the compensation awarded under the other heads is on the lower side and the same also requires to be reconsidered by this Court. Accordingly, he prays for appropriate enhancement in favour of the appellant.

6. Per contra, learned counsel appearing for the second respondent/Transport Corporation submitted that, the amount of Rs.5,000/- awarded per percentage of disability is reasonable and so also the compensation awarded under the other heads, which does not require any enhancement. Accordingly, he prays for dismissal of the appeal.



7. Heard the learned counsel appearing for the appellant and the

learned counsel appearing on behalf of the second respondent and perused the materials available on record.

8. The factum and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The only grievance of the appellant/claimant is with regard to the quantum of compensation awarded. In this regard, this Court perused Ex.C.1, which is the disability certificate issued by the Medical Board, Coimbatore and the same reveals that the appellant had suffered permanent disability of 30%. By considering the said certificate, the Tribunal had erroneously adopted a sum of Rs.5,000/- per percentage of disability and awarded a sum of Rs.1,50,000/- towards disability. As per the existing law at the relevant point of time, the Tribunal ought to have fixed a sum of Rs.8,000/- per percentage of disability. Hence, this Court is inclined to fix a sum of Rs.8,000/- per percentage of disability. Therefore, the compensation awarded under the head disability stands enhanced to a sum of Rs.2,40,000/- (30 x Rs.8,000/- = Rs.2,40,000/-).

9. Further, the Tribunal had awarded a sum of Rs.10,000/-



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towards transportation; Rs.10,000/- towards extra nourishment; Rs.10,000/- towards attender charges; Rs.5,000/- towards damages to clothes and articles; Rs.60,000/- towards pain and sufferings; Rs.40,000/- towards loss of income due to accident and Rs.40,000/- towards loss of amenities. This Court finds that the compensation awarded under the heads attender charges and loss of amenities are just and reasonable and the same is confirmed. However, insofar as the compensation awarded towards transportation, extra nourishment, pain and sufferings and loss of income due to accident are concerned, this Court feels that the same is on the lower side and accordingly, the compensation awarded under the said heads are enhanced to a sum of Rs.15,000/-, Rs.25,000/-, Rs.45,000/- and Rs.45,000/- respectively. Further, since the compensation awarded under the head damages to clothes and articles is on the higher side, the compensation awarded under the said head is reduced to a sum of Rs.1,000/-.

10. In view of the above, the compensation awarded by the Tribunal is modified as under :-



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S. No.	Description	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
1	Permanent disability	1,50,000/-	2,40,000/- (enhanced)
2	Transportation	10,000/-	15,000/- (enhanced)
3	Extra nourishment	10,000/-	25,000/- (enhanced)
4	Attender charges	10,000/-	10,000/-
5	Damages to clothes and articles	5,000/-	1,000/- (reduced)
6	Pain and Sufferings	60,000/-	75,000/- (enhanced)
7	Loss of income due to accident	40,000/-	45,000/- (enhanced)
8	Loss of amenities	40,000/-	40,000/-
	Total	3,25,000/-	4,51,000/-

11. Accordingly, this Civil Miscellaneous Appeal is partly allowed and the impugned award is modified, enhancing the compensation amount from **Rs.3,25,000/-** to **Rs.4,51,000/-** and the respondents 1 and 2 are jointly and severally liable to pay the compensation amount to the appellant. Accordingly, the second respondent/Transport Corporation is directed to deposit the compensation amount, awarded by this Court to the credit of M.C.O.P.No.550 of 2022 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,



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the 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 appellant/claimant through RTGS within a period of two (2) weeks thereafter upon production of proof with regard to payment of Court fee on the enhanced compensation. The appellant/claimant is directed to pay necessary additional Court fee on the enhanced compensation amount. It is made clear that the appellant will not be entitled to any interest for the delay period. No costs.

17.12.2024

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

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To

The Motor Accidents Claims Tribunal, Special District Court,
Coimbatore.



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M.DHANDAPANI, J.

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