



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1088 of 2024
and CMP No.10058 of 2024

The Managing Director
Tamil Nadu State Transport Corporation Ltd.,
Villupuram Division, Vellore Region,
Vellore.

..Appellant

.VS.

Salman

..Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 22.12.2021 passed in MACT O.P.No.613 of 2016 on the file of the Motor Accident Claims Tribunal, [1st Additional District and Sessions Judge at Vellore].

For Appellant : Mr.S.S.Santhosa Kumar

For Respondent : Mr.C.Prabakaran

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the Transport Corporation against the Award passed by the Motor Accidents Claims Tribunal, Vellore in MACTOP No.613 of 2016, dated 22.12.2021.



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2.The claimant who is the respondent herein filed the claim petition on the ground that he was travelling as a pillion rider in a two wheeler on 17.06.2012 and the two wheeler was proceeding at Arcot Road and at about 11.30 a.m., the bus belonging to the Transport Corporation was driven in a rash and negligent manner and had dashed on the motor cycle. As a result, the claimant sustained closed fracture of right femur and he also underwent surgery on 19.06.2012. That apart, he took treatment as an inpatient for nearly a week. The Medical Board assessed the disability at 10%. It is under these circumstances, the claim petition came to be filed before the Tribunal.

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 only due to the rash and negligent driving on the part of the driver of the bus belonging to the Transport Corporation.

4.Having rendered the above finding, the Tribunal fixed the total compensation of Rs.2,19,775/- (Rounded off Rs.2,20,000/-) under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	For Pain and sufferings	25,000
2.	For Disability	1,29,600



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S.No	Compensation awarded under the head	Amount (in Rs.)
3.	For loss of earnings during the period of treatment (Rs.6000/- x 3 months)	18,000
4.	For Transportation charges	5,000
5.	For Extra Nourishment	5,000
6.	For attender charges	5,000
7.	Medical Expenses	27,175
8.	For loss of amenities	5,000
	Total	2,19,775
	Rounded off	2,20,000

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

6.The Transport Corporation aggrieved by the quantum of compensation fixed by the Tribunal and also fixing the liability against the Corporation, has filed the present appeal before this Court.

7.Heard Mr.S.S.Santhosa Kumar, learned counsel appearing on behalf of the appellant, Mr.C.Prabakaran, learned counsel appearing on behalf of the respondent.

8.The main ground that was urged was that there were two pillion riders in the two wheeler and they went on a triples and the claimant was one of the pillion rider.

In spite of the same, the Tribunal had fixed the entire negligence/liability on the transport corporation without attributing contributory negligence on the two wheeler.



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It was further submitted that the total disability was assessed at 10% and whereas, the Tribunal proceeded to adopted the multiplier method as if the claimant had suffered functional disability.

9. In the considered view of this Court, the Tribunal on appreciation of the oral and documentary evidence had reached a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the bus belonging to the Transport Corporation. In view of the same, the two wheeler being driven with two pillion riders or the rider of the two wheeler not having a valid driving licence, by itself will not be a ground to attribute contributory negligence, unless, driving triples or not possessing the driving license has actually contributed to the accident. The law on this issue is now too well settled. Therefore, the Transport Corporation cannot escape from the liability in this case.

10. As rightly contended by the learned counsel for the appellant, the claimant had sustained closed fracture of right femur and the disability was assessed at 10%. There is absolutely no reason or basis for the Tribunal to adopt the multiplier method in this case, as if, the claimant who was aged about 19 years, suffered from functional disability. The Tribunal ought to have adopted per percentage method and fixed the compensation under the head of disability.



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11. In view of the above, the compensation that was fixed by the Tribunal under the head of disability is liable to be interfered by this Court. The compensation under this head is fixed at Rs.30,000/- (10% x Rs.3000/-)

12. The compensation fixed under the other heads are reasonable and it does not require the interference of this Court. Thus, except the compensation fixed under the head of disability, the compensation fixed under the other heads is not interfered. The compensation under the head of disability is reduced from Rs.1,29,600/- to Rs.30,000/-.

13. In the light of the above discussion, this Court modifies the compensation in the following manner:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	For Pain and sufferings	25,000
2.	For Disability (10% x Rs.3000/-)	30,000
3.	For loss of earnings during the period of treatment (Rs.6000/- x 3 months)	18,000
4.	For Transportation charges	5,000
5.	For Extra Nourishment	5,000
6.	For attender charges	5,000
7.	Medical Expenses	27,175
8.	For loss of amenities	5,000
	Total	1,20,175



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14.The compensation awarded by the Tribunal at Rs.2,20,000/- is reduced to Rs.1,20,175/-. The appellant Transport Corporation is directed to deposit the reduced 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.

15.In the result, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

03.06.2024

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

To

The Motor Accident Claims Tribunal,
[1st Additional District and Sessions Judge at Vellore], Vellore.

CMA No.1088 of 2024
and CMP No.10058 of 2024