



Civil Miscellaneous Appeal No.1662 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1662 of 2024

Sekar

... Appellant

Vs.

1. K.S.Vinoth

2. Tamil Nadu State Transport Corporation (CBE) TNSTC Ltd.,
37, Mettupalayam Road, Coimbatore ... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set-aside the order made in M.C.O.P.No.405 of 2015 on the file of the Motor Accident Claims Tribunal cum Subordinate Judge, Erode District at Bhavani dated 20.10.2021.

For Appellant : Mr.C.Kulanthaivel

For Respondents : Mr.Murali Vinoth
for R2



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JUDGMENT

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The claimant not being satisfied with the quantum of compensation awarded by the Tribunal has filed this appeal challenging the award passed by Motor Accident Claims Tribunal cum Subordinate Judge, Erode District at Bhavani in M.C.O.P.No.405 of 2015 dated 20.10.2021.

2. The case of the claimant is that on 31.12.2014, he was travelling in the bus belonging to the respondent corporation and at about 2.00 p.m., when the bus was going near Gounthambadi - Bhavani road, it was driven in a rash and negligent manner. As a result of which, the claimant was thrown out of the bus and he sustained grievous injuries, which also includes head injury and other injuries in the body. An FIR came to be registered against the driver of the bus in Crime No.1 of 2015. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

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 such a finding, the Tribunal proceeded to fix the total compensation at Rs.74,121/- under various heads as follows

:-

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Permanent disability	Rs.41,621/-
2.	Loss of Income	Rs.12,000/-
3.	Pain and sufferings	Rs.10,000/-
4.	Medical Bills	Rs. 5,00/-
5.	Extra Nourishment	Rs.2,000/-
6.	Transportation charges	Rs.6,000/-
7.	Attendar charges	Rs.2,000/-
	Total	Rs.74,121/-

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

6. The claimant not being satisfied with the quantum of



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compensation fixed by the Tribunal has filed this appeal seeking for enhancement of compensation.

7. Heard Mr.C.Kulanthaivel, learned counsel for appellant/claimant and Mr.M.Murali Vinodh, learned counsel for 2nd respondent.

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

9. This Court also carefully went through the award passed by the Tribunal.

10. The Tribunal had adopted the multiplier method by assuming that the claimant suffered from functional disability. The case of the claimant is that he was working as a coolie and he was aged about 47 years. There was no material to show that the claimant suffered from any functional disability and as a result, there was loss of earning capacity. In view of the same, the Tribunal ought not to have adopted the



multiplier method in this case.

11. Considering the facts of the case, it will be more appropriate to apply the per percentage method. The medical board had assessed the disability at 20%. Considering the fact that the accident had taken place in the year 2014, a sum of Rs.4,000/- can be fixed per percentage. Accordingly, this Court is inclined to fix a sum of Rs.80,000/- (4000x 20) under the head of disability.

12. The Tribunal has fixed only a sum of Rs.12,000/- under the head of loss of income. Considering the nature of injuries sustained by the claimant, he would not have been able to go for any work at least for three months. The notional monthly income can be fixed at Rs.10,000/- per month. Accordingly, a sum of Rs.30,000/- [10000x3 months] is fixed under the head of loss of income.

13. The compensation that has been granted under the other heads are reasonable and it does not require the interference of this Court.



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

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Permanent disability	Rs.80,000/-
2.	Loss of Income	Rs.30,000/-
3.	Pain and sufferings	Rs.10,000/-
4.	Medical Bills	Rs. 500/-
5.	Extra Nourishment	Rs.2,000/-
6.	Transportation charges	Rs.6,000/-
7.	Attendar charges	Rs.2,000/-
	Total	Rs.1,30,500/-

15. The compensation awarded by the Tribunal at Rs.74,121/- is enhanced to Rs.1,30,500/-. The 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. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant. The other directions issued by the Tribunal with regard to the mode of payment of



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compensation remains unaltered.

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In the result, the Civil Miscellaneous Appeal is allowed in the
above terms. No costs.

29.07.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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To, Motor Accident Claims Tribunal cum Subordinate Judge, Erode

District at Bhavani

N.ANAND VENKATESH.,J

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