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CMA No.1772 of 2023

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

**DATED : 03.07.2024**

**CORAM**

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

**CMA No.1772 of 2023**

Krishnamurthy

.. Appellant

.Vs.

The Managing Director  
Metropolitan Transport Corporation Limited  
Pallavan House, Anna Salai  
Chennai-2.

.. Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to enhance the compensation amount awarded by the Tribunal in M.C.O.P.No.291 of 2020, dated 29.11.2022, on the file of the Motor Accident Claims Tribunal/IV Court of Small Causes, Chennai.

For Appellant : Mrs.Ramya V.Rao

For Respondent : Mr.A.Vinothraj

**JUDGMENT**

The claimant aggrieved by the dismissal of his claim petition has filed the appeal against the award passed by the Motor Accident Claims Tribunal/IV Court of Small Causes, Chennai, in MCOP.No..291 of 2020, dated 29.11.2022.



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2.The case of the claimant is that on 30.12.2019, he was trying to board the bus belonging to the respondent Corporation at Purasaivakkam Highway Road and at that time, the driver of the bus all of a sudden started the bus and as a result, the claimant fell down and he sustained right leg thigh fracture, knee fracture, leg toe fracture and other multiple injuries. 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 and on appreciation of oral and documentary evidence came to a conclusion that the claimant had attempted to board on a moving bus and therefore, the entire negligence was on the part of the claimant and hence, the claim petition came to be dismissed.

4.The claimant aggrieved by the dismissal of the claim petition has filed the present appeal before this Court.

5.Heard Mrs.Ramya V.Rao, learned counsel for the appellant and Mr.A.Vinothraj, learned counsel for the respondent - Transport Corporation.

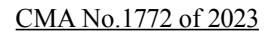


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6.This Court has carefully considered the submissions made on either side and the materials available on record. This Court has also carefully gone through the award passed by the Tribunal.

7.The evidence of the claimant, who was examined as PW.1, the evidence of the driver of the bus examined as RW.1 and Ex.P.1 [FIR], will have a lot of significance in this case. The accident had taken place on 30.12.2019 and a complaint came to be given the next day on 31.12.2019, by a woman who claimed to be selling clothes in the platform. She has stated that the claimant was attempting to board in a moving bus from the front side and he lost his balance and fell down and as a result, the back side wheel ran over the leg of the claimant. Curiously, the driver of the bus has not given any complaint in this case and some women unconnected, has given a complaint which has resulted in the registration of an FIR in Crime No.410 of 2019, against the claimant.

8.PW.1 in his evidence has stated that on 30.12.2019, after completing his work as a salesman, he attempted to board the bus at Purasaivakkam Highway Road and all of a sudden the driver without noticing the claimant started the bus and hence, the claimant lost the balance and he fell down and the rear wheel of the bus ran over his leg.



12. The claimant was not assessed by the Medical Board and therefore, the Tribunal shall also ensure that the claimant is assessed by the Medical Board and



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the disability certificate is obtained before proceeding further to fix the compensation.

13.In the result, the award passed by the Motor Accidents Claims Tribunal/IV Court of Small Causes, Chennai, in MCOP.No..291 of 2020, dated 29.11.2022, is hereby set aside. The matter is remanded back to the file of the Tribunal to decided the compensation under various heads after affording opportunity to both sides. The Tribunal on arriving at the total compensation shall direct the Transport Corporation to pay 40% of the compensation amount along with interest to the claimant. This process shall be completed by the Tribunal within a period of four months from the date of receipt of copy of the judgement.

In the result, this civil miscellaneous appeal is allowed with the above directions. No costs.

03.07.2024

Index : Yes/No  
Speaking Order/Non-Speaking Order  
Neutral citation : Yes/No  
KP  
To  
1.The Managing Director  
Metropolitan Transport Corporation Limited  
Pallavan House, Anna Salai, Chennai-2.



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2.Motor Accident Claims Tribunal/  
IV Court of Small Causes  
Chennai.

**N. ANAND VENKATESH., J**  
KP

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