



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.502 of 2023

The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Kumbakonam.

..Appellant

.VS.

Ramamoorthy

..Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree made in MCOP No.754 of 2017 on the file of the Motor Accident Claims Tribunal, Principal Sub Court, Cuddalore, dated 19.04.2022.

For Appellants : Mr.A.Olymba Chrysolite

For Respondents : Ms.Ramya V. Rao

JUDGMENT

The Transport Corporation aggrieved by the Award passed by the Motor Accident Claims Tribunal (Principal Sub Judge), Cuddalore in MCOP No.745 of



2017, dated 19.04.2022, has filed the appeal before this Court questioning the quantum of compensation fixed by the Tribunal.

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2.The case of the claimant is that he was riding a bicycle on 10.12.2016 at Kumbakonam-Chennai high road and at about 16.30 hours when the bicycle came near Salakarai hand post, the bus belonging to the Transport Corporation was driven in a rash and negligent manner and had hit the bicycle and as a result, the claimant sustained nasal bone fracture and fracture of right clavicle. He also took treatment in the hospital as an inpatient for nearly two days. An FIR came to be filed against the driver of the bus in Crime No.494 of 2016. The Medical Board assessed the disability at 27%. It is under these circumstances, the claimant filed the claim petition before the Tribunal seeking for 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 Corporation. Having rendered the above finding, the Tribunal proceeded to fix the total compensation at Rs.4,17,960/- under various heads as follows:



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S.No	Compensation awarded under the head	Amount (in Rs.)
1.	For Partial permanent disability	3,36,960
2.	For Transport to Hospital	10,000
3.	For Extra Nourishment	5,000
4.	For Attender's Charge	5,000
5.	For Pain and Sufferings	30,000
6.	For Loss of Amenities	15,000
7.	For Temporary loss of income	16,000
	Total	4,17,960

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

5.The Transport Corporation being aggrieved by the quantum of compensation fixed by the Tribunal have filed the present appeal.

6.Heard Mr.A.Olymba Chrysolite, learned counsel appearing on behalf of the appellant and Ms.Ramya V. Rao, learned counsel appearing on behalf of the respondent.

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



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8.The main ground of attack is on the multiplier method that was adopted by the Tribunal in this case. The claimant had sustained nasal bone fracture and fracture of right clavicle and he was an inpatient for two days. The disability was assessed at 27%. There was no proof to show that the disability suffered by the claimant resulted in functional disability. Therefore, the Tribunal ought not to have adopted the multiplier method in this case.

9.In the light of the above finding, this Court is inclined to adopt the per percentage method and accordingly, the compensation under the head of 'Permanent Disability' is fixed at Rs.1,35,000/- (27% x Rs.5000/-).

10.Insofar as temporary loss of income is concerned, the Tribunal had fixed a sum of Rs.16,000/- This Court is inclined to fix the notional monthly income at Rs.12,000/- Considering the nature of injuries, it can be presumed that the claimant would have been out of job for atleast five months. Therefore, the compensation can be fixed at Rs.60,000/- under this head.

11.The compensation fixed under the other heads are reasonable and it does not require the interference of this Court.



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12. 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 Partial permanent disability	1,35,000
2.	For Transport to Hospital	10,000
3.	For Extra Nourishment	5,000
4.	For Attender's Charge	5,000
5.	For Pain and Sufferings	30,000
6.	For Loss of Amenities	15,000
7.	For Temporary loss of income	60,000
	Total	2,60,000

13. The compensation awarded by the Tribunal at Rs.4,17,960/- is reduced to Rs.2,60,000/-. The appellant insurance company 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 six 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.



N. ANAND VENKATESH., J

ssr

14. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

Consequently, connected miscellaneous petition is closed.

13.06.2024

Index : Yes/No

Speaking Order/Non-Speaking Order

Neutral citation : Yes/No

ssr

To

The Motor Accident Claims Tribunal, Principal Sub Court, Cuddalore.

CMA No.502 of 2023