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CMA.No.2742 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

CMA.No.2742 of 2023

R.Saravanan

Appellant

Vs

The Managing Director
Tamil Nadu State Transport Corporation Limited
Vellore 632009

Respondent

Prayer:- This Civil Miscellaneous Appeal has been filed, against the judgement and decree, dated, 17.08.2022, made in MCOP.No.283 of 2016, by the Chief Judicial Magistrate (MACT) Vellore.

For Appellant : Mr.C.Prabakaran

For Respondents : Mr.C.R.Suresh Kumar, Standing Counsel

JUDGEMENT

1. This Civil Miscellaneous Appeal has been filed, by the claimant, challenging the quantum of compensation, awarded by the judgement and decree, dated, 17.08.2022, made in MCOP.No.283 of 2016, by the Chief Judicial Magistrate (MACT) Vellore.
2. The claimant has filed the claim petition before the Tribunal, seeking a compensation of Rs.7,00,000/- on various heads, for the injuries sustained by him, in a motor road accident, which took place on 26.07.2013. The claim petition was resisted, on various grounds, by the relating to the Respondent Corporation, by filing a counter. On the side of the claimant, PW.1 and



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PW.2 were examined and Ex.P1 to Ex.P14 were marked. On the side of the Respondent, RW.1 was examined. Ex.C1 was marked.

3. Finding that the accident had occurred only due to the rash and negligent driving of the driver of the offending vehicle belonged to the Respondent, the Tribunal has awarded a total compensation of Rs.75,700/-, on various heads, with interest at 7.5% p.a. from the date of the claim petition till the date of realization, as detailed below:-

S.No	Category	Award Amount (Rs.)
1	Loss of Earning and Partial Loss of Earning	24000
2	Pain and Suffering	35000
3	Medical Expenses	700
4	Transportation Expenses	3000
5	Extra Nourishment	10000
6	Damage to Clothes	3000
Total Compensation		75700

Aggrieved by the quantum of compensation, this appeal has been filed by the claimant.

4. This Court heard the learned counsel for the Appellant and the Respondent, considered their submissions and also perused the entire materials placed on record.
5. Since there is no quarrel over the manner, in which the accident had occurred, negligence aspect and the liability aspect as well and the dispute is only with regard to the quantum of compensation, the findings of the Tribunal with respect to the manner of the accident, negligence aspect and liability aspect are confirmed and also it is not necessary to narrate the entire facts in detail in respect of the accident.



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6. According to the learned counsel for the Appellant, the accident had occurred in the year 2013 and at the time of the accident, the claimant was aged 38 years old and earning a sum of Rs.15,000/- p.m. as a Carpenter and the claimant sustained injuries, such as, fracture on his right jaw bone, laceration over right knee and right cheek and abrasion over right elbow. Considering the nature of injuries, the compensation of Rs.24,000/- awarded by the Tribunal under the head of loss of earning capacity is on the lower side. Though in his deposition, he has deposed that he sustained fracture on jaw bone, the Medical Board, which assessed the disability of the claimant, has erroneously issued the disability at NIL. Further, no compensation was awarded under the head of attendants charges. Hence, the impugned compensation is to be redetermined and enhanced.
7. On the other hand, the learned counsel for the Respondent would submit that in so far as the determination of disability by the Medical Board is concerned, the accident had occurred in the year 2013 and the Doctor, who examined the claimant in 2022, has deposed to the extent that though as per the medical records, the claimant sustained fracture on his right jaw bone, at the time of examination after a period of 9 years, such injuries would have been cured and that the claimant was in a good health condition and that he did not suffer any disablement and hence, the Medical Board was right in fixing the disability of the claimant at NIL and consequently, the Tribunal was right in awarding no compensation under the head of continuing permanent disability. The compensation amounts awarded under the other heads are



also reasonable.

8. It is not in dispute that the claimant sustained injuries as stated above. The accident had occurred in the year 2013. However, the disability of the claimant was assessed and determined by the Medical Board in 2022 at NIL. The Doctor, who assessed the injured in 2022, has deposed that though the claimant suffered fracture on his right jaw bone as per the previous medical records, at the time of deposition, the claimant was in a good health condition and that he did not suffer any disablement and that he was further examined by the Special Doctor, who also certified that he has not suffered any disablement and that after obtaining opinions from the Medical Experts only, the disability certificate, fixing the disability at NIL, was issued

9. Though the claimant sustained injuries in 2013, at the time when the claimant was assessed in 2022, such injuries would have been cured and as per the deposition of the Doctor, he did not suffer any disability. That is the reason for the Medical Board to fix the disability of the claimant at NIL. Consequently, considering the nature of injuries and the disability certificate, no compensation was awarded under the head of continuing permanent disability by the Tribunal. This Court does not find any error or infirmity on the part of the Tribunal in coming to such a conclusion in regard to fixation of compensation under the head of continuing permanent disability and hence, the said finding is confirmed.

10. Further, there is no need to redetermine the compensation amounts awarded under the heads by the Tribunal, considering the nature of injuries,



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which were stated to have been cured subsequently. However, no compensation amount was awarded towards attendants charges and hence, considering the nature of injuries, it would be appropriate to award a sum of Rs.5,000/- under this head. Considering the nature of injuries, the compensation awarded by the Tribunal under the heads are reasonable and hence, they are confirmed. In all, the claimant is entitled to a total compensation of Rs.80,700/- with interest 7.5% p.a. from the date of the claim petition till the date of realisation.

11.In fine, this Civil Miscellaneous Appeal is partly allowed. In all, the claimant is entitled to a total compensation of Rs.80,700/-, (Rupees eight thousand seven hundred only) with interest 7.5% p.a. from the date of the claim petition till the date of realisation, as redetermined below:-

S.No	Category	Award Amount (Rs.)
1	Loss of Earning and Partial Loss of Earning	24000
2	Pain and Suffering	35000
3	Medical Expenses	700
4	Transportation Expenses	3000
5	Extra Nourishment	10000
6	Damage to Clothes	3000
7	Attendants Charges	5000
Total Compensation		80700

The claimant shall pay proper court fee for the enhanced compensation amount. The Respondent is directed to deposit the entire award amount with interest at 7.5% p.a. from the date of the claim petition till the date of deposit, after deducting the amount, if any already, deposited, within a period of six weeks from the date of receipt of a copy of this order and also the interest for the delay in filing the appeal if any for the enhanced compensation, within a



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period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer, by way of RTGS, the entire compensation amount, with interest due, directly to the bank account of the claimant, within a period of three weeks thereafter. No costs.

12.02.2024

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Neutral Citation
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To

1. The Chief Judicial Magistrate (MACT) Vellore.
2. The Record Keeper, VR Section, High Court, Madras

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