



C.M.A.No.3405 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.3405 of 2024

Ramachandran

... Appellant/Petitioner

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
No.3/137, Salamedu,
Villupuram.

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to allow the appeal and enhance the compensation in M.C.O.P.No.2594 of 2017 on the file of the Motor Accidents Claims Tribunal in the IV Court of Small Causes, Chennai.

For Appellant : Mr.R.Mohan Babu

For Respondent : Mr.S.S.Santhosa Kumar

JUDGMENT

The above appeal is filed by the petitioner/claimant seeking enhancement of the compensation awarded in M.C.O.P.No.2594 of 2017



C.M.A.No.3405 of 2024

WEB COPY

on the file of the Motor Accidents Claims Tribunal in the IV Court of Small Causes, Chennai.

2. It is the case of the appellant that, on 17.03.2017 at 16.20 hrs. when the appellant was riding his two wheeler bearing registration No.TN 61 F 6613, a Government bus bearing registration No.TN 32 N 3242 driven by its driver, which came behind in the same road in a rash and negligent manner had dashed the appellant who tried to take a right turn, without noticing the signal given by the appellant, thereby, the appellant sustained grievous injuries all over the body. Therefore, the appellant had filed a claim petition claiming a sum of Rs.10,00,000/- for the injuries sustained by him in the said road accident.

3. Before the Tribunal, the appellant had examined himself as P.W.1 and examined the doctor as P.W.2 and marked 9 documents viz., Ex.P.1 to Ex.P.9. On the side of the respondents, they have examined R.W.1 and has not marked any documents. After adjudication, the Tribunal awarded a sum of Rs.41,821/- as compensation to the appellant. Not satisfied with the same, the appellant has preferred the present



C.M.A.No.3405 of 2024

appeal seeking enhancement.

WEB COPY

4. The learned counsel appearing for the appellant submitted that, though the accident is of the year 2017, and the independent Doctor assessed the disability at 35%, however, the Tribunal has not awarded any amount under the head disability, which is *per se* unsustainable. He further submits that the other heads awarded by the Tribunal are also on the lower side and the same requires to be re-considered by this Court. Accordingly, he prays for appropriate enhancement in favour of the appellant.

5. The learned counsel appearing for the respondent/Transport Corporation submitted that, after taking into consideration the injury suffered by the claimant, the Tribunal has rightly awarded the compensation of Rs.42,000/-, which does not require any enhancement. Further, he submits that the other heads awarded by the Tribunal below is just and reasonable for the injuries sustained by the claimant. Accordingly, he prays for dismissal of the appeal.



C.M.A.No.3405 of 2024

WEB COPY

6. Heard the learned counsel appearing for the appellant and the learned counsel appearing on behalf of the respondent and perused the materials available on record.

7. The factum and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The only grievance of the appellant/claimant is with regard to the quantum of compensation awarded. Moreso, the appellant had sustained multiple injuries and the independent Doctor assessed the disability of the claimant as 35%. However, no amount has been awarded under the head “disability”. Though the Doctor assessed the disability of the appellant at 35%, however, the percentage of disability varies from Doctor to Doctor. Hence, this Court is inclined to fix the disability of the appellant at 25%. Though the appellant is a Maison and he claims that he is not earning less than a sum of Rs.20,000/- per month, however, there is no proof to show his income. In the absence of proof of income, considering the nature of injuries suffered by the appellant, this Court is inclined to fix a sum of Rs.7,000/- at the rate of per percentage of disability. Therefore, the amount under the head disability is fixed to a sum of Rs.1,75,000/-



(25 x Rs.7,000/- = Rs.1,75,000/-).

8. Further, this Court awards a sum of Rs.15,000/- is awarded under the head pain and suffering, which is on the lower side and the same is enhanced to a sum of Rs.40,000/-; a sum of Rs.5,000/- was awarded under the head Transportation which is very meagre and the same is enhanced to a sum of Rs.10,000/-; a sum of Rs.5,000/- has been awarded under the head Nutrition expenses which is on the lower side and the same is enhanced to a sum of Rs.20,000/-; a sum of Rs.2,000/- has been awarded under the head damages to clothes which is on the higher side and the same is reduced to a sum of Rs.1,000/-: towards loss of income during the treatment no amount has been awarded under the said head; hence a sum of Rs.10,000/- has been awarded; the award under the head medical expenses is just and reasonable, which does not require any interference.

9. In view of the above, this Court is inclined to pass the following award:-



C.M.A.No.3405 of 2024

<i>S.No.</i>	<i>Description</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
1	Disability	-	1,75,000/- (awarded)
2	Medical expenses	13,821/-	13,821/-
3	Pain and Suffering	15,000/-	40,000/- (enhanced)
4	Transportation Expenses	5,000/-	10,000/- (enhanced)
5	Nutrition Expenses	5,000/-	20,000/- (awarded)
6	Damages to Clothes	2,000/-	1,000/- (reduced)
7	Attender Charges	1,000/-	10,000/- (enhanced)
8	Loss of income during treatment period	-	10,000/- (awarded)
	Total	41,821/-	2,79,821/-

10. Accordingly, this appeal is partly allowed and the compensation amount by the Tribunal is enhanced from **Rs.41,821/-** to **Rs.2,79,821/-** and the respondent/Transport Corporation is directed to deposit the compensation amount, awarded by this Court above, to the credit of M.C.O.P.No.2594 of 2017 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less the amount, if any already



C.M.A.No.3405 of 2024

deposited, within a period of six weeks (6) from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellant/claimant through RTGS within a period of two weeks thereafter, upon production of proof with regard to payment of Court fee on the enhanced compensation. The appellant is directed to pay necessary additional Court fee on the enhanced compensation amount. It is made clear that the appellant is not entitled for interest for the default period, if any. There shall be no order as to costs in the present appeal.

21.12.2024

Index : Yes / No

Speaking order / Non-speaking order

Netrual Citation Case : Yes / No

rap

To

1.Motor Accidents Claims Tribunal in the IV Court of Small Causes, Chennai.

2.The Section Officer, V.R.Section, High Court, Madras.



WEB COPY



C.M.A.No.3405 of 2024

M.DHANDAPANI, J.

rap

C.M.A.No.3405 of 2024

21.12.2024