



C.M.A.No.1337 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 04.03.2024	Pronounced on 12.03.2024
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CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.1337 of 2021

C.Karthikeyan,
S/o.Chakkaravarthy,
No.533, Sivankovil Street, Thiruchopuram,
Thygavalli Post, Cuddalore Taluk.

... Appellant

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram Division I,
Villupuram 605 602.

... Respondent

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the fair and decretal award passed by the Motor Accident Claims Tribunal (1st Additional Sub Judge, Cuddalore) dated 22.01.2019 in MCOP.No.1247 of 2015.

For Appellant : Mr.S.Udhayakumar

For Respondents : Mr.C.R.Sureshkumar



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JUDGMENT

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The Appeal has been filed against the fair and decreetal award passed by the Motor Accident Claims Tribunal (1st Additional Sub Judge, Cuddalore) dated 22.01.2019 in MCOP.No.1247 of 2015.

2.The claim Petitioner is the Appellant herein. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

3.The claim Petitioner filed MCOP.No.1247 of 2015, seeking compensation for the injuries sustained by him in a road transport accident occurred on 10.03.2015. The Tribunal has awarded a sum of Rs.2,48,820/- with interest at the rate of 7.5% per annum. Aggrieved against the same and seeking enhancement, the claim Petitioner has preferred this Appeal.

4.The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the Respondent's vehicle are not under challenge in this Appeal. Accordingly, the finding rendered by the trial Court that the accident taken place due to the rash and negligent driving of the driver



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of the Respondent's vehicle is hereby confirmed.

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5.During trial, on the side of the claim Petitioner, PW1 was examined, Ex.P1 to ExP10 were marked and on the side of the Respondents, none was examined and no documents were marked and Ex.C1 was marked as Court document.

6.Heard the learned counsel for the claim Petitioner and learned counsel for the Transport Corporation.

7.Learned counsel for the claim Petitioner would contend that the claim Petitioner suffered grievous injuries in the accident occurred on 10.03.2015. The Petitioner as PW1 has deposed that due to the accident, he sustained grievous injuries and he is unable to work as that of before the accident. Ex.P.1 is the FIR. Ex.P.2 is the AR Copy and Ex.P.3 is the discharge summary issued by Government Hospital, Cuddalore. Ex.P.4 is the discharge summary issued by Krishna Hospital, Cuddalore. On perusal of the said documents, the Tribunal finds that the Petitioner sustained fracture of grade III B compound comminuted tibia right leg as mentioned in Ex.P.4. Ex.C1/disability certificate



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issued by the Medical Board shows that the Petitioner has sustained 11% disability for whole body.

8.Learned counsel for the Transport Corporation would contend that at the time of the accident, the claim Petitioner/injured was not wearing helmet. When the same was put to the claim Petitioner during his examination, by way of suggestion, PW1 denied the same. Even as per Ex.P1/FIR there is no information about non wearing of helmet by the claim Petitioner, besides, the Transport Corporation has not examined its driver, to show or demonstrate that at the time of the accident, the claim Petitioner was not wearing helmet and hence the plea raised by the Transport Corporation in this regard is rejected.

9.The Tribunal has rightly come to the conclusion that the Petitioner has not produced any evidence to show his nature of work. As per Ex.C1/disability certificate he had sustained 11% disability for the whole body and consequently the Tribunal has rejected the claim of the claim Petitioner that the injuries resulted functional disability.

10.Taking into consideration the claim Petitioner's partial permanent



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disability and also taking note of the occupation of PW1 at the time of the accident, being Machine Operator in GMS Position Engg. Co. Chennai, this Court is of the considered view that the claim Petitioner could have earned a sum of Rs.8,500/- per month and due to the injuries he could not be in a position to earn temporarily for a period of three months and for the partial permanent disability, this Court is inclined to award a sum of Rs.5,000/- per percentage.

11.The Tribunal has awarded a sum of Rs.10,000/- towards extra nourishment, a sum of Rs.20,000/- towards loss of amenities and based on Ex.P6/Medical bills, a sum of Rs.1,28,230/- has been awarded by the Tribunal, the same are hereby confirmed. The Tribunal has awarded a sum of Rs.30,000/- for pain and sufferings, the same is deleted. The Tribunal has awarded a sum of Rs.5,000/- & Rs.3,000/- towards transportation charges and attender's charges, the same are enhanced to Rs.15,000/- & Rs.10,000/- respectively.

<i>S.No.</i>	<i>Heads</i>	<i>Amount (Rs.)</i>
1	Disability Rs.5,000/- x 11	55000
2	Transportation	15000
3	Extra nourishment	10000
4	Attender charges	10000
5	Loss of amenities	20000



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S.No.	Heads	Amount (Rs.)
6	Medical expenses	128230
7	Temporary Loss of income Rs.8500/- x 3	25500
	Total	263730

12.In total, the claim Petitioner is entitled to a sum of Rs.2,63,730/- (Rupees two lakh sixty three thousand seven hundred and thirty only), with 7.5% per annum.

13. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the award amount from Rs.2,48,820/- to Rs.2,63,730/- to the extent indicated above, with 7.5% interest per annum. No Costs.

(ii) the Transport Corporation is directed to deposit the enhanced award amount before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) on such deposit being made, the claim Petitioner/Appellant is permitted to withdraw the entire enhanced award amount with accrued interest and costs,



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less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) the claim Petitioner/Appellant is directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

12.03.2024

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

sai

To
The I Additional Sub Judge,
Motor Accident Claims Tribunal,
Cuddalore.



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RMT.TEEKAA RAMAN.J,

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Pre-delivery Judgment made in

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Dated: 12.03.2024