



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2024

WEB COPY

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA Nos.1597 & 1793 of 2024
and CMP No.14239 of 2024

CMA No.1597 of 2024

H.S.Manigundan

... Appellant

.vs.

1.K.Pranesh

2.Assistant Executive Engineer
Tractor Workshop
Coimbatore – 641 018.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the Award dated 18.04.2023 made in MCOP No.612 of 2017 on the file of Special Sub Court to deal with MCOP Cases, Coimbatore.

For Appellant : Mr.T.Shanmugananda

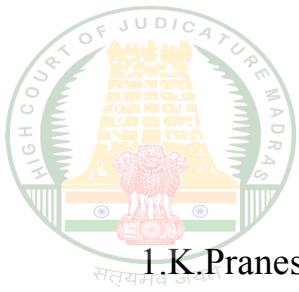
For Respondents : Mr.M.R.Thangavel for R1
Mr.N.Muthuvel
Government Advocate for R2

CMA No.1793 of 2024

The Assistant Executive Engineer
Tractor Workshop
Coimbatore – 641 018.

... Appellant

.vs.



1.K.Pranesh

2.H.S.Manigundan

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the Award dated 18.04.2023 made in MCOP No.612 of 2017 on the file of MACT/Special Sub Court to deal with MCOP Cases, Coimbatore.

For Appellant : Mr.N.Muthuvel
Government Advocate

For Respondents : Mr.M.R.Thangavel for R1
Mr.T.Shanmugananda for R2

JUDGMENT

These appeals have been filed by the Assistant Executive Engineer, Coimbatore and also by the driver of the vehicle who was working in the Government establishment, against the Award passed by the Motor Accident Claims Tribunal, Coimbatore in MCOP No.612 of 2017, dated 18.04.2023.

2.The claimant filed the claim petition before the Tribunal on the ground that on 25.11.2016, he was riding a two wheeler at Mettupalayam Road and at about 12.15 p.m., near the Kumaran Mill bus stop, a Metador van came from the opposite direction and it was driven in a rash and negligent manner and it hit the two wheeler. As a result of which, the claimant was thrown out of the vehicle. The

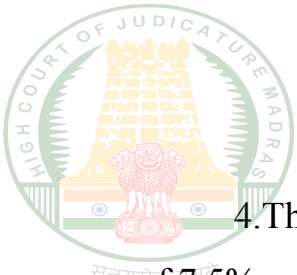


claimant sustained undisplaced fracture of left foot - 3rd and 4th meta – tarsal base;

Facial injuries – injuries on both the jaws and cut injuries on forehead and also multiply bodily injuries. An FIR came to be registered against the driver of the offending vehicle in Crime No.518 of 2016. 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 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 negligence on the part of the driver of the offending vehicle. The Tribunal having rendered the above finding, proceeded to fix the total compensation at Rs.2,10,000/- under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Pain and Sufferings	60,000
2.	Loss of Amenities	40,000
3.	Loss of Income	40,000
4.	Permanent Disability	30,000
5.	Attender Charges	10,000
6.	Extra Nourishment	15,000
7.	Transportation Charges	10,000
8.	Damages to Clothes	5,000
	Total	2,10,000



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

WEB COPY

5.The Assistant Executive Engineer of Tractor Workshop, aggrieved by the quantum of compensation fixed by the Tribunal has filed CMA No.1793 of 2024. The Driver of the offending vehicle aggrieved by the fact that the Tribunal had fixed joint and several liability against the driver as well as the employer, has filed CMA No.1597 of 2024.

6.Heard Mr.T.Shanmugananda, learned counsel appearing on behalf of the appellant in CMA No.1597 of 2024, Mr.N.Muthuvel, learned Government Advocate appearing on behalf of the appellant in CMA No.1793 of 2024, Mr.M.R.Thangavel, learned counsel appearing on behalf of the 1st respondent in both the appeals, Mr.N.Muthuvel, learned Government Advocate appearing on behalf of the 2nd respondent in CMA No.1597 of 2024 and Mr.T.Shanmugananda, learned counsel appearing on behalf of the 2nd respondent in CMA No.1793 of 2024.

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



8.The main grievance that was expressed by the learned counsel for the appellant in CMA No.1597 of 2024 is that the Tribunal went wrong in holding that the appellant was negligent, as a result of which the accident took place. The learned counsel further submitted that the appellant had already retired from services and since the Tribunal had fixed the responsibility as joint and several, the employer is now insisting for the payment of the compensation amount from the terminal benefits of the appellant and as a result, the appellant has not been paid any terminal benefits after his retirement.

9.The learned Additional Government Pleader appearing on behalf of the learned counsel for the appellant in CMA No.1793 of 2024 submitted that the compensation fixed by the Tribunal is on the higher side.

10.On carefully going through the Award passed by the Tribunal, it is seen that the Tribunal has considered the evidence of PW1 and also Exs.P3, P4 and P5. The Tribunal has also considered the evidence of the driver of the offending vehicle. On carefully considering the same, by applying the principles of preponderance of probabilities, the Tribunal came to a conclusion that the accident had taken place only due to the negligence on the part of the driver of the offending vehicle. This finding of the Tribunal does not suffer from any perversity



and it does not require the interference of this Court.

WEB COPY

11. There is no dispute with regard to the fact that the appellant in CMA No.1597 of 2024 is a driver who was working with the Government establishment. Therefore, for the negligence on the part of the employee of the Government, the Government will have to be made vicariously liable. There is no question of asking the employee to pay the compensation. This stand adopted by the Government, completely goes against the very concept of vicarious liability.

12. In a case of a driver belonging to the Transport Corporation, the compensation is directed to be paid by the Transport Corporation and not by the driver. In the same way, in a case where a vehicle has been insured and the driver of the vehicle due to his negligence causes an accident, it is only the Insurance Company which pays the compensation. In both these scenarios, the liability is made as joint and several. Unless the negligence is attributed against the driver, there is no question of asking the Transport Corporation or the Insurance Company, as the case may be, to pay the compensation. In other words, even though the negligence is on the part of the driver of the offending vehicle, for that negligence, the Transport Corporation or the Insurance Company, as the case may be, are made to pay the compensation. In the same manner, even though, the



Tribunal has held that the liability of the driver of the vehicle and the Government establishment is joint and several, the compensation has to be necessarily paid only by the Government establishment and the driver cannot be asked to pay the amount to the injured person.

13.The grievance expressed by the appellant in CMA No.1597 of 2024 is answered accordingly and it is made clear that the compensation will be paid only by the Government establishment to the injured and not by the appellant in CMA No.1597 of 2024.

14.The next issue is with regard to the quantum of compensation. The injury that was sustained by the claimant has already been extracted *supra*. The injured underwent treatment as an inpatient for nearly five days. The disability was also assessed at 6%. In view of the same, except for the compensation fixed under the heads of pain and sufferings and loss of amenities, this Court does not find the compensation fixed under the other heads on the higher side.

15.The Tribunal has fixed a sum of Rs.60,000/- under the head of paid and sufferings and considering the facts and circumstances of the case and the injuries sustained, this Court is inclined to reduce the same to Rs.30,000/- Similarly, the



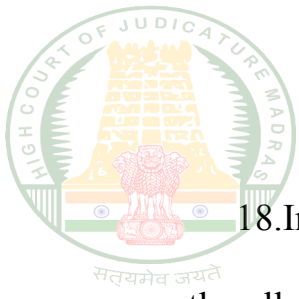
compensation fixed under the head of loss of amenities is reduced to Rs.20,000/-

WEB COPY

16. In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Pain and Sufferings	30,000
2.	Loss of Amenities	20,000
3.	Loss of Income	40,000
4.	Permanent Disability	30,000
5.	Attender Charges	10,000
6.	Extra Nourishment	15,000
7.	Transportation Charges	10,000
8.	Damages to Clothes	5,000
	Total	1,60,000

17. The compensation awarded by the Tribunal at Rs.2,10,000/- is reduced to Rs.1,60,000/-. 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.



18. In the result, CMA No.1597 of 2024 and CMA No.1793 of 2024 are partly allowed to the extent indicated herein. In view of the same, whatever amount has been deposited, the appellant in CMA No.1597 of 2024 can be permitted to be withdrawn with accrued interest. No Costs. Consequently, connected miscellaneous petition is closed.

18.07.2024

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

To

The MACT/Special Sub Court to deal with MCOP Cases, Coimbatore.



WEB COPY



N. ANAND VENKATESH., J

SSR

CMA Nos.1597 & 1793 of 2024
and CMP No.14239 of 2024

18.07.2024



CMA Nos.1597 & 1793 of 2024

WEB N. ANAND VENKATESH.,J

Today, the matter was listed under the caption “for being mentioned” on the ground that there is an inadvertent mistake that has crept in Paragraph No.18 of the order. Therefore, paragraph No.18 of the order dated 18.07.2024 shall be replaced as follows:

18.In the result, CMA No.1597 of 2024 and CMA No.1793 of 2024 are partly allowed to the extent indicated herein. In view of the same, whatever amount has been deposited, the 1st respondent/claimants in CMA No.1597 of 2024 can be permitted to be withdrawn with accrued interest. No costs. Consequently, connected miscellaneous petition is closed.

2.The Registry is directed to carry out the necessary corrections in the order and issue fresh order copy.

10.02.2025

kp



WEB COPY



N. ANAND VENKATESH.,J

kp

CMA Nos.1597 & 1793 of 2024

10.02.2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2025

WEB COPY

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA Nos.1597 & 1793 of 2024

CMA No.1597 of 2024

H.S.Manigundan

... Appellant

.vs.

1.K.Pranesh

2.Assistant Executive Engineer
Tractor Workshop
Coimbatore – 641 018.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the Award dated 18.04.2023 made in MCOP No.612 of 2017 on the file of Special Sub Court to deal with MCOP Cases, Coimbatore.

For Appellant : Mr.T.Shanmugananda

For Respondents : Mr.M.R.Thangavel for R1
Mr.N.Muthuvel
Government Advocate for R2

CMA No.1793 of 2024

The Assistant Executive Engineer
Tractor Workshop
Coimbatore – 641 018.

... Appellant

.vs.



1.K.Pranesh

2.H.S.Manigundan



..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the Award dated 18.04.2023 made in MCOP No.612 of 2017 on the file of MACT/Special Sub Court to deal with MCOP Cases, Coimbatore.

For Appellant : Mr.N.Muthuvel
Government Advocate

For Respondents : Mr.M.R.Thangavel for R1
Mr.T.Shanmugananda for R2

ORDER

The matter was listed under the caption 'for being mentioned' since a mistake had crept in the order that was passed on 10.02.2025 that made corrections in the original order dated 18.07.2024. Paragraph 18 shall now read as follows:

18.In the result, CMA No.1597 of 2024 and CMA No.1793 of 2024 are partly allowed to the extent indicated herein. The appellant in CMA No.1597 of 2024, is permitted to withdraw the sum of Rs.25,000/- deposited by him with accrued interest. The claimant is entitled to withdraw any other amount deposited with accrued



WEB COPY

interest. No costs. Consequently, connected miscellaneous petition is closed.

Paragraph No. 17 of the order dated 18.07.2024, the "insurance company" shall be deleted and replaced with "the appellant in CMA No.1793 of 2024" to read as follows:

17.The compensation awarded by the Tribunal at Rs.2,10,000/- is reduced to Rs.1,60,000/-. The appellant in CMA No.1793/2024 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.

The Registry is directed to carry out the necessary corrections in the order and issue fresh order copy.

\

24.09.2025

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



WEB COPY



N. ANAND VENKATESH., J

KP

To

The MACT/Special Sub Court to deal with MCOP Cases, Coimbatore.

CMA Nos.1597 & 1793 of 2024

24.09.2025