



C.M.A.No.455 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2024

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.No.455 of 2024

and

C.M.P.No.4740 of 2024

The Managing Director,
Tamil Nadu State Transport
Corporation (Kumbakonam) Limited,
Periyamilaguparai, Trichy.

...Appellant

Vs

Minor Deepath,
Rep by his father/Paramasivam

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment dated 26.06.2023 made in MCOP.No.718 of 2018 on the file of the Motor Accident Claims Tribunal/ Special Subordinate Judge, Perambur and to dismiss the above claim.

For Appellant : Mr.M.Murali Vinodh



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JUDGMENT

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This civil miscellaneous appeal has been filed challenging the decree and judgment dated 26.06.2023 made in MCOP.No.718 of 2018

2. The learned counsel for the claimant would submit that on 17.08.2015 when the minor claimant was riding his bicycle in Labbaikudikadu to Nannai Main Road, a bus bearing Registration No.TN-72-N-1329 came in a rash and negligent manner and dashed against him, due to which he had sustained severe injuries. Considering all the aspects, the Tribunal had awarded the compensation in the following manner:

<i>S.No</i>	<i>Heads</i>	<i>Compensation (Rs.)</i>
1	Loss of Income due to disability	4,00,000
2	Pain and Sufferings	1,00,000
3	Loss of Amenities	1,00,000
4	Loss of Marriage Prospects	1,00,000
5	Loss of Studies	50,000
6	Attender Charges	10,500
7	Conveyance Charges	10,000
8	Special Diet	10,000
9	Reimbursement of Medical Bills	1,12,827
10	Future Medical Bills	1,00,000
	Total	9,93,327



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3. By referring the above compensation, he would submit that the amount awarded towards Pain and Sufferings, Loss of Amenities, Future Medical Expenses and Marriage Prospects are appears to be on the higher side and the same is not reasonable. Hence, he would request this Court to re-determine the compensation awarded by the Tribunal. However, he would fairly submit that the amount awarded towards loss of income for a sum of Rs.4,00,000/- appears to be reasonable and hence, he requests this Court to confirm the same.

4. Heard the learned counsel for the appellant and also perused the materials available on record.

5. In the present case, due to the accident occurred on 17.08.2015, the claimant had sustained crush injuries, for which the Medical Board had assessed the disability at 45%. After taking the said aspects into consideration, the Tribunal had awarded a sum of Rs.4,00,000/- and there is no dispute with regard to the same. The challenge in this appeal is with regard to the compensation awarded under the heads Pain and Sufferings, Loss of Amenities,



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Future Medical Expenses and Marriage Prospects. As per the law laid down by the Hon'ble Apex Court in *Rajkumar vs. Ajaykumar and another* reported in **2010 SCC OnLine SC 1166**, when the disability was assessed at 45%, normally, the Court will apply multiplier method for awarding compensation. However, in the present case, the Tribunal had applied percentage method instead of multiplier method. If the multiplier method is applied, the loss of income would not be less than a sum of Rs.10,00,000/-. However, without considering the same, the Tribunal had only awarded a sum of Rs.4,00,000/- as loss of income. When such being the case, after taking into consideration of the aspects of application of percentage method for determination of loss of income for disability, the compensation awarded by the Tribunal towards Pain and Sufferings, Loss of Amenities, Future Medical Expenses and Marriage Prospects are appears to be very reasonable. Hence, there is no merit in the contention made by the learned counsel for the appellant. Since there is no interference required, this Court is inclined to confirm the award passed by the Tribunal. Accordingly, the award dated 26.06.2023 stands confirmed.



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6. Further, it is made clear that if the claimant is intend to file any appeal for the enhancement of compensation, the above order passed by this Court will not deprive the right of the claimant to file the same.

7. In the result, this Civil Miscellaneous Appeal is dismissed and the appellant is directed to deposit the award amount along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.718 of 2018 on the file of the Motor Accident Claims Tribunal/ Special Subordinate Judge, Perambur. Upon such deposit, the Tribunal is directed to transfer the award amount to bank account of the claimant, by way of RTGS, within a period of three weeks from the deposit and details obtained for the claimant. No costs. Consequently, the connected miscellaneous petition is also closed.

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Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
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KRISHNAN RAMASAMY,J.

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