



WEB COPY



C.M.A.No.2993 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

C.M.A.No.2993 of 2023

K.Mahalingam

.. Appellant

Vs.

The Managing Director,
Tamilnadu State Transport Corporation Ltd.,
Vazhudareddy, Villupuram.

.. Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to allow this appeal by enhancing the award passed by the Motor Accident Claims Tribunal, Additional Sub Court, Vridhachalam, in M.C.O.P.No.99 of 2020 dated 28.04.2023.

For Appellant : Mr.S.Udhayakumar
For Respondent : Mr.S.Santhosa Kumar

J U D G M E N T

The claimant not being satisfied with the quantum of compensation fixed by the Tribunal has filed the present appeal against the award passed by the Motor Accident Claims Tribunal, Additional Sub Court, Vridhachalam, in M.C.O.P.No.99 of 2020 dated 28.04.2023.



C.M.A.No.2993 of 2023

WEB COPY

2.The case of the claimant is that on 12.04.2019, he was walking near a bus stand and at that point of time, the bus belonging to the respondent Corporation was driven in a rash and negligent manner and it dashed on the claimant, as a result of which, the claimant sustained grievous injuries which also included a spinal cord injury. The disability was fixed at 90% by the Medical Board under Ex.C1. 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 the oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the bus belonging to respondent Corporation.

4.The Tribunal having rendered the above finding, fixed the total compensation at Rs.6,69,500/- under various heads as follows:



C.M.A.No.2993 of 2023

Sl.No.	Heads	Amount
1.	Towards permanent disability (9000 X 12 X 5 X 90/100)	Rs.4,86,000/-
2.	Towards Pain and Sufferings	Rs.1,00,000/-
3.	Towards Loss of amenities	Rs.50,000/-
4.	Towards Future Medical Expenses	Rs.10,000/-
5.	Towards Transportation	Rs.10,000/-
6.	Towards Attender Charges (15 X 400)	Rs.6,000/-
7.	Towards Extra Nourishment	Rs.7,500/-
	Total	Rs.6,69,500/-

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

6.The claimant not being satisfied with the quantum of compensation fixed by the Tribunal has filed the present appeal seeking for enhancement of compensation.

7.Heard the learned counsel for the appellant and the learned counsel for the respondent.

8.This Court has carefully considered the submissions made on



C.M.A.No.2993 of 2023

either side and the materials available on record.

WEB COPY

9.This Court has also carefully gone through the award passed by the Tribunal.

10.In the instant case, the accident had taken place in the year 2019 and the age of the claimant / injured was 62 years. He underwent treatment as an inpatient for nearly 15 days. It is also clear from the disability certificate that he had sustained spinal cord injury. The claimant came up with a case that he is doing Coolie work and he was earning a sum of Rs.15,000/- per month. There is no more evidence regarding the occupation of the claimant and the monthly income earned by him. Therefore, the Tribunal fixed a sum of Rs.9,000/- as notional monthly income. This Court finds that the notional monthly income is on the lower side and this Court is inclined to enhance the same to Rs.12,000/- per month. The Tribunal has applied '5' multiplier. Considering the age of the claimant, the appropriate multiplier is '7'.

11.In the light of the above discussion, the compensation under the head of loss of earnings is calculated as follows:



C.M.A.No.2993 of 2023

Rs.12,000/- X 12 X 7 X 90/100 = Rs.9,07,200/-

WEB COPY

12.The compensation that has been fixed under other heads are reasonable and it does not require the interference of this Court.

13.In the light of the above discussion, the compensation fixed by the Tribunal is modified as follows:

1.Towards Loss of earnings	-	Rs.9,07,200/-
2.Towards pain and sufferings	-	Rs.1,00,000/-
3.Towards loss of amenities	-	Rs.50,000/-
4.Towards Future Medical Expenses	-	Rs.10,000/-
5.Towards Transportation	-	Rs.10,000/-
6.Towards Attender charges	-	Rs.6,000/-
7.Towards Extra nourishment	-	Rs.7,500/-

Rs.10,90,700/-

14.The compensation awarded by the Tribunal at Rs.6,69,500/- is hereby enhanced to Rs.10,90,700/-. The respondent-Transport Corporation is directed to deposit the enhanced compensation together



C.M.A.No.2993 of 2023

with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four (4) weeks from the date of receipt of a copy of this judgment, if not already deposited. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

15.In the result, the Civil Miscellaneous Appeal is partly allowed in the above terms. No costs.

22.07.2024

krk

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

1.The Additional Subordinate Judge,
Motor Accident Claims Tribunal,
Additional Sub Court,
Vridhachalam.

2.The Section Officer,
VR Section,
Madras High Court,



C.M.A.No.2993 of 2023

WEB COPY

N.ANAND VENKATESH, J.

krk

C.M.A.No.2993 of 2023