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C.M.A.No.1539 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.1539 of 2024

Velayutham

... Appellant

..Vs..

The Managing Director
Tamilnadu State Transport Corporation Limited
Vilupuram Division III, (Kanchipuram)
Ponneri, Kanchipuram

...Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Award dated 18.06.2019 in M.A.C.T.O.P 1413 of 2016, on the file of the II Court of Small Causes, Motor Accident Claims Tribunal, Chennai.

For Appellant : Mr.K. Ayyadurai

For Respondent : Mr.A. Vinoth Raja

JUDGMENT

The appellant is the claimant in M.A.C.T.O.P. 1413 of 2016, on the file of the II Court of Small Causes, Motor Accident Claims Tribunal,



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Chennai, and he filed the said claim petition under Section 166 of the Motor Vehicles Act and Rule 3 of M.A.C.T. Rules, seeking compensation of Rs.25,00,000/- for the injuries sustained by him, in a road accident that took place on 18.10.2014.

2. The brief case of the appellant/claimant is as follows:

2.1. On 18.10.2014, at about 17.55 hours, the appellant/claimant was driving a Mahindra Bollero van bearing Registration Number AP-03-X-0418 on Tirupathi-Thiruvallur Road and when he was nearing Thirumurugan college, a bus bearing Registration Number TN-21-N-1508, belonging to the Tamil Nadu State Transport Corporation Limited came in the opposite direction rashly and negligently and collided with the van as a result of which the claimant sustained injuries all over his body. He was immediately rushed to the hospital.

2.2. According to the claimant, the rash and negligent driving of the driver of the bus bearing Registration Number TN-21-N-1508 belonging to the Tamil Nadu State Transport Corporation, was the cause of the accident and therefore the Transport Corporation is liable to pay



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compensation to him.

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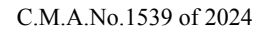
3. The respondent Transport Corporation contested the claim petition by filing its counter.

4. The Tribunal, after analysing the evidence on record, directed the respondent Transport Corporation to pay compensation of Rs.6,25,700/- to the appellant/claimant together with interest at the rate of 7.5% per annum from the date of the petition till the date of realisation.

5. Aggrieved over the quantum of compensation awarded by the Tribunal, the appellant/claimant has filed the present appeal under Section 173 of Motor Vehicles Act, 1988.

6. Heard Mr.K. Ayyadurai, learned counsel for the appellant and Mr.A. Vinoth Raja, learned counsel for the respondent Transport Corporation.

7. Mr.K. Ayyadurai, learned counsel for the appellant contended



8. Per contra, Mr.A. Vinoth Raja, learned counsel appearing for respondent/Transport Corporation contended that the Award passed by the Tribunal is based on the well laid down principles of law which were in vogue at the time of passing of the order and therefore, the same cannot be disturbed.

9. According to the claimant he was a heavy motor vehicle driver earning Rs.15,000/- per month. However, no income proof was adduced by him. Therefore, the Tribunal fixed the notional monthly income of the claimant as Rs.15,000/- The accident took place in the year 2014 and the notional monthly income fixed by the Tribunal is perfectly in order.

9.1. A perusal of the disability certificate issued by the Vellore Government Medical College Hospital shows that the claimant sustained a crush injury on his right leg and his leg is also shortened by three inches.



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The Medical Board attached to Vellore Medical College Hospital has issued disability certificate stating that the claimant has sustained 45% of permanent disability. Therefore, applying multiplier method is warranted as per the decision in ***Rajkumar Vs. Ajay Kumar and another reported in 2011(1)SCC 343***. 40% is added to Rs.15,000/- towards future prospects as per the decision of the Constitution Bench of the Honourable Supreme Court of India in ***National Insurance Company Limited vs. Pranay Sethi and others reported in 2017 (2) TNMAC 601.***, and hence the monthly income of the claimant is fixed at Rs.21,000/- (15,000 + 6,000). The proper multiplier in the instant case is 15 as per the decision rendered in ***Sarla Verma and others vs. Delhi Transport Corporation and another*** reported in ***(2009) 6 SCC 121***. Accordingly the 'loss of earning capacity' is calculated as follows.

Calculation for loss of earning capacity

Notional income fixed	- Rs.21,000/-
Proper multiplier	- 15
Disability suffered by appellant	- 45%
Loss of earning capacity	- $21,000 \times 12 \times 15 \times 45/100$
	= Rs.17,01,000/-

The following tabular column would show the amount awarded by the



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Tribunal and the enhanced amount awarded by this Court under various heads.

S.No	Heads	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)
1.	Disability	1,05,000/-	17,01,000/-
2.	Pain and sufferings	1,50,000/-	50,000/-
3.	Extra nourishment	50,000/-	50,000/-
4.	Transportation charges	30,000/-	10,000/-
5.	Damages to clothes	500/-	500/-
6.	Attender charges	4,000/-	4,000/-
7.	Medical expenses	1,91,109/-	1,91,109/-
8.	Future Medical expenses	25,000/-	25,000/-
9.	Loss of income	45,000/-	-
10.	Loss of amenities	25,000/-	10,000/-
	TOTAL	6,25,609/- Rounded off to Rs.6,25,700/-	20,41,609/-

10. Thus, the compensation awarded by the Tribunal is enhanced from **Rs.6,25,700/-** to **Rs.20,41,609/-**. As regards the interest, the claimant is entitled to get 7.5% per annum for Rs.20,16,609/- and no



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interest is granted for Rs.25,000/- (future medical expenses).

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11. In the result,

- i. The Civil Miscellaneous Appeal is partly allowed. No costs.
- ii. The compensation awarded by the Tribunal is enhanced **Rs.6,25,700/- to Rs.20,41,609/-**.
- iii. The appellant / claimant is directed to pay the court fee for the enhanced compensation amount, if any, and the Registry is directed to draft the decree only after the receipt of Court fee.
- iv. The respondent, Tamilnadu State Transport Corporation Limited Kancheepuram, is directed to deposit the enhanced compensation amount i.e., **Rs.20,41,609/-** (less the amount already deposited) together with interest at the rate of 7.5% per annum for Rs.20,16,609/- from the date of claim petition till the date of deposit to the credit of M.A.C.T.O.P.1413 of 2016 on the file of the II Court of Small Causes, Motor Accident Claims Tribunal, Chennai, within a period of four weeks from the date of receipt of a copy of this order.
- v. The appellant/claimant is not entitled to claim any interest for the period of delay of 1429 days in filing this appeal, as per the orders



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of this Court dated 12.06.2024 in C.M.P. No.2037 of 2024.

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vi. On such deposit being made, the appellant / claimant is at liberty to withdraw the same after following due process of law.

30.08.2024

Index : Yes/No

Internet : Yes/No

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To

1. II Court of Small Causes, Motor Accident Claims Tribunal, Chennai,

2. The Managing Director
Tamilnadu State Transport Corporation Limited
Vilupuram Division III, (Kanchipuram)
Ponneri, Kanchipuram

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



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R. HEMALATHA, J.

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