



Civil Miscellaneous Appeal No.1711 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1711 of 2024

Ajay Kumar Yadau
S/o.Dayanand Yadau

... Appellant

Vs.

The Managing Director,
Metropolitan Transport Corporation
(Chennai Division) Ltd.,
Anna Salai, Chennai - 600 002.

... Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 18.12.2018 made in M.C.O.P.No.6401 of 2015 on the file of Principal Special Judge, Special Court under E.C. & NDPS Act, Chennai.

For Appellant : Mr.U.Chithambaram
for Mr.K.V.Muthu Visakan
For Respondent : Mr.Anton Dhanasekaran

JUDGMENT

The appellant/claimant, not being satisfied with the quantum of compensation awarded by the Principal Special Judge, Special Court under E.C. & NDPS Act, Chennai, in M.C.O.P.No.6401 of 2015, dated 18.12.2018, has filed this appeal.



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2. The case of the claimant is that on 27.06.2015, he was riding a two wheeler at Anna Salai and at about 09.40 hours, when his two wheeler was crossing Saidapet, a bus belonging to the respondent transport corporation was driven in a rash and negligent manner and it dashed on the two wheeler as a result, the claimant sustained fracture superior, inferior pubic ramII, body of left pubic bone, fracture left sacral bone at S2 level with dissociation of left sacroiliac joint, fracture right iliac bone at sacroiliac joint level and right ileopsoas muscle contusion, left lateral abdominal wall and paraspinal muscle contusion. The doctor, who treated the claimant, assessed the disability at 40%. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking 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 rash and negligent driving on the part of the driver of the bus belonging to the respondent transport corporation. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.3,67,000/- under



Civil Miscellaneous Appeal No.1711 of 2024

various heads as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of earning	50,000/-
2.	Transport to hospital	5,000/-
3.	Extra nourishment	5,000/-
4.	Damages to clothing and articles	2,000/-
5.	Cost of treatment and purchase of medicines	1,35,000/-
6.	Loss of income to the family members	15,000/-
7.	Loss of amenities	10,000/-
8.	Future medical expenses	-
9.	Pain and sufferings	40,000/-
10.	Compensation for continuing or permanent disability	1,05,000/-
11.	Compensation for the loss of earning power	-
	Total	3,67,000/-

The above compensation was directed to be paid along with interest at 7.5% p.a.

4. The claimant, not being satisfied with the quantum of compensation awarded by the Tribunal, has filed this appeal seeking enhancement of compensation.



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5. Heard Mr.U.Chithambaram, learned counsel for appellant/claimant and Mr.Anton Dhanasekaran, learned counsel for respondent transport corporation.

6. This Court carefully considered the submissions made on either side and the materials available on record.

7. This Court also carefully went through the award passed by the Tribunal.

8. The Tribunal had adopted per percentage method and taken the disability at 35% and Rs.3,000/- was fixed per percentage. Considering the fact that the accident had taken place in the year 2015, this Court is inclined to grant a sum of Rs.5,000/- per percentage. Accordingly, the compensation payable under the head 'disability' would be Rs.1,75,000/- [5000 x 35].

9. The injury sustained by the claimant has already been extracted supra. The claimant was taking treatment as an inpatient for nearly 14



days. Therefore, this Court is inclined to enhance the compensation under the heads 'transport to hospital' and 'extra nourishment' to Rs.10,000/- and Rs.25,000/- respectively.

10. The compensation awarded under other heads is justified and the same does not require the interference of this Court.

11. For the foregoing reasons, the compensation awarded by the Tribunal is modified as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount awarded by the Tribunal (in Rs.)</i>	<i>Amount awarded by this Court (in Rs.)</i>
1.	Loss of earning	50,000/-	50,000/-
2.	Transport to hospital	5,000/-	10,000/-
3.	Extra nourishment	5,000/-	25,000/-
4.	Damages to clothing and articles	2,000/-	2,000/-
5.	Cost of treatment and purchase of medicines	1,35,000/-	1,35,000/-
6.	Loss of income to the family members	15,000/-	15,000/-
7.	Loss of amenities	10,000/-	10,000/-
8.	Future medical expenses	-	-
9.	Pain and sufferings	40,000/-	40,000/-



Sl. No.	Compensation awarded under the head	Amount awarded by the Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
10.	Compensation for continuing or permanent disability	1,05,000/-	1,75,000/-
11.	Compensation for the loss of earning power	-	-
	Total	3,67,000/-	4,62,000/-

12. The compensation awarded by the Tribunal at Rs.3,67,000/- is enhanced to Rs.4,62,000/-. The respondent transport corporation is directed to deposit the compensation awarded by this Court, 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 four (4) weeks from the date of receipt of this judgment. Insofar as the enhanced compensation of Rs.95,000/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay of 1437 days as was ordered by this Court in C.M.P.No.8597 of 2024 in C.M.A.Sr.No.164627 of 2023 dated 25.06.2024. 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.



Civil Miscellaneous Appeal No.1711 of 2024

In the result, the Civil Miscellaneous Appeal is partly allowed. No

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costs.

19.07.2024

Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No

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To
The Principal Special Judge,
Special Court under E.C. & NDPS Act,
Chennai.



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Civil Miscellaneous Appeal No.1711 of 2024

N.ANAND VENKATESH, J.

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Civil Miscellaneous Appeal No.1711 of 2024

19.07.2024