



C.M.A.No.48 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.48 of 2024

M.Peermohamed

...Appellant

Vs

The Managing Director,
Metropolitan Transport Corporation,
Pallavan Salai,
Chennai-600 002

... Respondent

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree made in MCOP.No.1509 of 2020 dated 13.09.2023 on the file of the Motor Accident Claims Tribunal/IV Court of Small Causes, Chennai.

For Appellant : Ms.Ramya V.Rao

For Respondent : Mr.M.Murali Vinodh



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JUDGMENT

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This Civil Miscellaneous Appeal has been filed by the appellant, seeking enhancement of the compensation awarded by the Tribunal vide order dated 13.09.2023 in MCOP.No.1509 of 2020.

2. On 08.01.2020, when the appellant/claimant was boarding the respondent's bus bearing Registration No.TN-01-N-5342 through front entrance at Guduvancherry Bus Stand, the driver of the bus without seeing the passenger boarding into the bus, suddenly moved the same, as a result of which, the claimant fell down and the wheel of the bus ran over the legs of the claimant. Due to the said accident, the claimant sustained grievous injuries. Hence, the claimant moved a petition before the Tribunal, claiming Rs.20,00,000/- as compensation.

3. On consideration of both oral and documentary evidence, the Tribunal has awarded the compensation on the following heads:

<i>S.No</i>	<i>Particulars</i>	<i>Compensation (Rs.)</i>
1	Disability	2,65,000



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<i>S.No</i>	<i>Particulars</i>	<i>Compensation (Rs.)</i>
2	Medical Expenses	19,122
3	Pain and Sufferings	40,000
4	Transport Expenses	15,000
5	Nutrition expenses	10,000
6	Attendant charges	27000
7	Damage of cloths	2000
8	Loss of amenities	40000
9	Loss of income	27000
	Total	4,45,122/-
	Rounded off	4,45,200

4. Being not satisfied with the quantum of the compensation awarded by the Tribunal, the appellant/claimant has come forward with the present appeal.

5. The learned counsel appearing for the appellant would submit that the appellant had sustained fracture on his left leg and due to which, his left leg knee/ankle movements got affected. Further, the Medical Board had assessed the disability of the injured at 53% while the Tribunal has awarded the compensation at Rs.2,65,000/- towards disability by applying per centage method treating the permanent disability at 53%, which is on the lower side. Hence, he requests this Court to enhance the same. He also submits that there is no dispute with regard to the factum of the accident occurred and fastening the



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liability by the Tribunal, but only with regard to the meagre compensation awarded by the Tribunal.

6. In reply, the learned counsel appearing for the respondent would submit that considering the year of accident and the nature of avocation of the appellant, the Tribunal had rightly awarded the compensation, which requires no interference and hence, he requests this Court to confirm the same.

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

8. In the present case, the accident had occurred in the year 2020 and at the time of accident, the injured, who was aged about 62 years. However, it is to be noted that no evidence has been adduced by the appellant to show that he lost his employment in the Company or he lost income due to loss of earning capacity. Hence, the compensation awarded by the Tribunal under the head of 'loss of income' is not justifiable and the same is liable to be deleted.



9. As far as compensation awarded towards disability is concerned, in these type of cases, while applying the multiplier method, the Courts will normally take 1/3rd percentage of the disability in order to award compensation. In such view of the matter, in the present case, it appears that the Medical Board had assessed the disability of the injured at 53% and the Tribunal had taken the entire disability of 53% as permanent disability, but awarded the compensation by per centage method. Therefore, taking into consideration the nature of injuries and the disability sustained by the appellant, who is aged about 62 years at the time of accident and working as Assistant Security Officer in Sri Ramachandra Hospital, Porur and earning Rs.13,500/- per month, this Court feels that it would be appropriate to adopt multiplier method while taking 53% as functional disability. Accordingly, by adopting multiplier method towards 53% of disability, the compensation is calculated as follows:

$$\text{Rs.}13,500 \times 12 \times 7 \times 53 / 100 = 6,01,000/-.$$

10. Further, it appears that no amount has been awarded towards future medical expenses since the injured would be diagnosed with fracture both bones on left leg and suffering difficulty in climbing stairs, this Court is inclined to award a sum of Rs.40,000/- towards future medical expenses.



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11. The compensation awarded under the other heads appears to be just and reasonable and hence, the same stands confirmed.

12. Accordingly, the compensation awarded by the Tribunal is modified as follows:

S.No	Particulars	Compensation awarded by the Tribunal (Rs.)	Compensation awarded by this Court (Rs.)
1	Disability	2,65,100	6,01,000
2	Medical Expenses	19,122	19,122
3	Pain and Sufferings	40,000	40,000
4	Transport Expenses	15,000	15,000
5	Nutrition expenses	10,000	10,000
6	Attendant charges	27,000	27000
7	Damage of Cloths	2,000	2,000
8	Loss of amenities	40000	40000
9	Loss of earnings	27000	-- (deleted)
10	Future medical expenses	Nil	40000
	Total	4,45,122	7,94,122

13. Accordingly, the compensation awarded by the Tribunal stands enhanced from a sum of Rs.4,45,200/- to Rs.7,94,122/-.



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14. In the result, this Civil Miscellaneous Appeal is partly allowed and the respondent is directed to deposit a sum of Rs.7,94,122/- along with interest and costs, less the amount already deposited, if any, within a period of 6 weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.1509 of 2020 on the file of the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai. Further, the claimant shall pay necessary Court fee, if any, on the enhanced compensation. Thereafter, the Tribunal is directed to immediately transfer the entire amount to the bank accounts of the claimant by way of RTGS, within a period of 3 weeks from the date of deposit and from the date of receipt of the Bank details obtained for the claimant or application for withdrawal from the claimant, whichever is earlier. No costs.

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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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To:

The Motor Accident Claims Tribunal,
IV Court of Small Causes, Chennai

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