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C.M.A.No.1845 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2024

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1845 of 2022

and

C.M.P.No.13338 of 2022

The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram.

... Appellant

Vs.

1.Muthukumar
2.D.Thirumangaialvar

... Respondents

PRAYER: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988 challenging the Award and Decree dated 18.03.2016 made in M.C.O.P. No.1013 of 2002 on the file of the Motor Accidents Claims Tribunal, III Additional District Court, Puducherry.

For Appellant : Mr.A.Vinothraj

For Respondents : Mr.R.Sreedhar
for R1

JUDGMENT

This appeal has been filed by the Transport Corporation, questioning the quantum of compensation awarded by the Tribunal.



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2. The first respondent / claimant sustained the following injuries as a result of an accident caused by a bus owned by the appellant Transport Corporation:

"laceration on the forehead, tip of the nose, cheek region, right ear, right side mouth, dorsum of left hand and fracture on right femur, tibia, fibula and left tibia, fibula and right maxilla and zygoma".

3. The Doctor has assessed the disability of the first respondent / claimant at 76% as seen from the disability certificate (Ex.P7). The nature of injuries sustained by the first respondent / claimant has also not been disputed by the appellant Transport Corporation. The first respondent / claimant has produced medical records and medical bills as well as the disability certificate, which have been marked as exhibits before the Tribunal.

4. The first respondent / claimant has also examined two witnesses viz., the first respondent / claimant himself as PW1 and the private Doctor as PW2. However, on the side of the appellant Transport Corporation,



neither any document was filed nor any witness was examined before the Tribunal.

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5. Since there was no contra evidence produced by the appellant Transport Corporation to disprove the disability of the first respondent / claimant, the Tribunal has accepted the assessment of disability made by the first respondent's / claimant's Doctor (PW2) at 76%. The Tribunal has awarded disability compensation at Rs.2,28,000/- at Rs.3,000/- per percentage of disability for the 76% disability suffered by the first respondent / claimant.

6. After giving due consideration to the nature of injuries sustained by the first respondent / claimant as detailed supra, this Court is in agreement with the acceptance of 76% as the disability suffered by the first respondent / claimant, which is based on the disability certificate (Ex.P7). However, the Tribunal has awarded a higher compensation towards disability to the first respondent / claimant by calculating the disability compensation at Rs.3,000/- per percentage of disability. The accident happened in the year 2001. Therefore, the disability compensation ought to have been assessed at



a lesser sum per percentage of disability.

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7. The learned counsel for the first respondent / claimant would submit that the Tribunal has erroneously not adopted the multiplier method for assessing the loss of earning capacity of the first respondent / claimant despite the fact that he has sustained grievous injuries which resulted in loss of earning capacity to him. Though, this Court is of the view that the disability compensation for the year 2001 has to be reduced from Rs.3,000/- per percentage of disability as assessed by the Tribunal, but this Court after giving due consideration to the nature of injuries sustained by the first respondent / claimant and also after giving due consideration to the 76% disability suffered by the first respondent / claimant, is not reducing the disability compensation drastically, but instead, is assessing the disability compensation at Rs.2,000/- per percentage of disability instead of Rs.3,000/- per percentage of disability.

8. It is made clear that the assessment of the disability compensation by this Court at Rs.2,000/- per percentage of disability is made only due to the fact that the Tribunal has not taken into consideration the grievous



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injuries sustained by the first respondent / claimant and if the same was taken into consideration, in all likelihood, the Tribunal ought to have adopted the multiplier method and ought to have awarded compensation to the first respondent / claimant towards loss of earning capacity. Since the same was not granted, this Court has assessed the disability compensation at Rs.2,000/- per percentage of disability though for the year 2001 being the year of the accident, Rs.2,000/- per percentage of disability is not the index for assessing the disability compensation.

9. Since this Court has assessed the disability compensation at Rs.2,000/- per percentage of disability, the disability compensation payable to the first respondent / claimant by the appellant Transport Corporation has been reduced to Rs.1,52,000/- instead of Rs.2,28,000/- erroneously assessed by the Tribunal.

10. In so far as the compensation awarded by the Tribunal towards pain and suffering at Rs.15,000/-, towards medical expenses at Rs.72,000/-, towards travelling expenses and extra nourishment at Rs.10,000/- and towards loss of income at Rs.15,000/- are concerned, the same is a just



compensation and there is no question of further reduction by this Court.

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11. For the foregoing reasons, the compensation payable by the appellant Transport Corporation is re-worked in the following manner:

<i>Heads</i>	<i>Amount awarded by the Tribunal in Rs.</i>	<i>Amount awarded by this Court in Rs.</i>
Partial Permanent Disability	2,28,000	1,52,000
Pain and sufferings	15,000	15,000
Medical expenses	72,000	72,000
Travelling expenses and extra nourishment	10,000	10,000
Loss of income	15,000	15,000
Total	3,40,000	2,64,000

12. In the result, this Civil Miscellaneous Appeal is **partly allowed** by reducing the award amount from **Rs.3,40,000/-** to **Rs.2,64,000/-**. The appellant Transport Corporation is directed to deposit the reduced award amount of **Rs.2,64,000/-**, after deducting the amount already deposited, if any, together with interest at the rate of **7.5%** per annum from the date of the claim petition till the date of deposit and cost to the credit of **M.C.O.P. No.1013 of 2002** on the file of the **Motor Accidents Claims Tribunal, III Additional District Court, Puducherry**, within a period of **four weeks**



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from the date of receipt of a copy of this judgment.

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13. The first respondent /claimant is permitted to withdraw the said amount, once it is deposited by the appellant Transport Corporation, by filing an appropriate application before the Tribunal. On such application being made, the Tribunal shall transfer the amount lying to the credit of **M.C.O.P. No.1013 of 2002** to the bank account of the first respondent /claimants directly through NEFT / RTGS, within a period of **one week** thereafter. No costs. Consequently, the connected miscellaneous petition is closed.

18.07.2024

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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To

1. The Motor Accidents Claims Tribunal, III Additional District Court, Puducherry.
2. The Section officer, Record Section, High Court of Madras.



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ABDUL QUDDHOSE. J.,

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