



**C.M.A(MD)No.328 of 2022**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**WEB COPY**

**Dated : 13.06.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.ILANGO VAN**

**C.M.A(MD)No.328 of 2022**

**and**

**C.M.P(MD)No.3003 of 2022**

M/s.Tamilnadu State Transport Corporation Limited  
through its Managing Director,  
Office at No.2, Trivandrum Road,  
Vannarapettai,  
Tirunelveli.

... Appellant / Respondent

**Vs.**

Thangam

... Respondent / Petitioner

**PRAYER :-**

This Civil Miscellaneous Appeal is filed under Section 173 Motor vehicles Act to call for the records relating to the common Award dated 23.08.2021 passed in M.C.O.P.No.460 of 2018 by the Motor Accident Claims Tribunal / Special Sub Court dealing with MCOP Cases, Tirunelveli and to set aside the same.



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For Appellant : Mr.S.R.Rajamohan

For Respondent : Mr.T.Selvakumaran

### **JUDGMENT**

This Civil Miscellaneous Appeal is filed to call for the records relating to the common Award dated 23.08.2021 passed in M.C.O.P.No.460 of 2018 by the Motor Accident Claims Tribunal / Special Sub Court dealing with MCOP Cases, Tirunelveli and to set aside the same.

2. The case of the petitioner is that on 24.07.2016, at about 6.30 pm., the petitioner was riding his motorcycle bearing registration No. TN 76 AC 3624 along with his wife as pillion rider on Tenkasi to Tirunelveli main Road from West to East direction. At that time, a bus bearing registration No.TN 72 N 1729 which belongs to the appellant Corporation was driven by its driver in a rash and negligent manner hit the two wheeler. As a result of which, both fell down and sustained injuries. They were taken to the private hospital and took treatments. A case was registered in Crime No.80 of 2016



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against the appellant vehicle rider. Claiming compensation amount, the claim petition in M.C.O.P.No.460 of 2018 was filed claiming Rs.20 Lakhs as compensation. Another injured filed M.C.O.P.No.459 of 2018, claiming Rs.2 Lakhs as compensation. Both the petitions were taken up together, common enquiry was conducted and a common order was passed.

It was resisted by the appellant corporation stating that only because of the rider of the two wheeler, the occurrence took place. In front of the rider of the two wheeler, an unnumbered car was coming in the opposite direction. It was suddenly stopped. To avoid collision, the rider of the two wheeler turned the two wheeler to the right and in that process, both have sustained injuries for which the appellant driver is no way responsible.

3. Before the Tribunal, on the side of the petitioners, two witnesses were examined and ten documents were marked and disability certificate was marked as Ex.C1. At the conclusion of the enquiry, the Tribunal held that the occurrence took place because of the rash and negligence on the part of the appellant's driver and fixed the responsibility. Regarding the compensation for the claimant in M.C.O.P.No.460 of 2018, on the basis of the medical



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board certificate, it assessed the total disability at 86% adopting multiplier method. Finally, the Tribunal arrived at the compensation as follows:

| Sl. No. | Heads                      | Calculation           |
|---------|----------------------------|-----------------------|
| 1       | Loss of earning power      | Rs.16,25,400/-        |
| 2       | Medical Bills              | Rs. 1,53,463/-        |
| 3       | Attendant Charges          | Rs. 50,000/-          |
| 4.      | Pain and Sufferings        | Rs. 50,000/-          |
| 5.      | Transport expenses         | Rs. 10,000/-          |
| 6.      | Extra Nourishment          | Rs. 50,000/-          |
|         | Total Compensation Awarded | <b>Rs.19,38,863/-</b> |

Challenging the quantum as well as the negligence, this Civil Miscellaneous appeal is preferred by the Corporation.

4. Regarding negligence aspect, the story of the appellant that a car was coming in the opposite direction in front of the petitioner and stopped suddenly. In that process, to avoid hitting, the first respondent applied brake and they both were thrown away and sustained injuries, is absolutely without any basis. The driver of the appellant was not examined as witness before the Tribunal. He was the competent person to speak about the contra evidence deposited by P.W.1 and P.W.2. On the basis of the statement of P.W.1 and



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P.W.2, the Tribunal found that the occurrence took place because of the rash and negligent driving of the appellant driver. The manner of accident also indicates the rashness and negligence on the part of the appellant vehicle driver. I find absolutely no reason to differ from the decision taken by the Tribunal on that aspect.

5. Regarding the quantum, the dispute is raised by the learned counsel for the appellant that there was no functional disability. The contra finding of the Tribunal is not correct on records. It is stated that he was aged about 33 years and suffered with multiple fractures and underwent multiple surgery. Because of the accidental injuries, he was not in a position to do his normal work as before. He is totally bedridden. But all the medical records pertaining to the treatment particulars are not produced by the claimant. Medical bills and discharge summary are not in proper form. At the time of discharge, it is noted as '*Post Traumatic Sequelat- Left Side Sciatic Nerve Injury with Both Peroneal and Tibial Component are involved*'.

6. The Medical Board assessed the disability as 86%. It was noted that the left lower limb suffered 86% of permanent disability. When the left lower



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limb is completely damaged and suffered 86% of permanent disability, the Tribunal thought it fit to adopt multiplier method.

7. Regarding the income of the claimants, there was no proper proof. He stated to be a centring work contractor, earning about Rs.15,000/- per month. There is no proper documentary evidence to prove. Therefore, the notional income was fixed at Rs.7,500/- which cannot be considered to be excessive. By relying upon the judgment of the Hon'ble Supreme Court in *Raj Kumar Vs. Ajay Kumar*, reported in 2011(1) SCC Page 343, it took the permanent disability as total disability and after the conventional additions , calculations it arrived at Rs.19,38,863/- as compensation.

8. Considering the facts of the case and the nature of injuries, this Court is of the considered view that the multiplier method adopted by the Tribunal is proper and acceptable. The income of the claimant was reasonably fixed. None of the categories require interference at the hands of this Court.

9. In view of the above discussions, this Civil Miscellaneous Appeal is dismissed by confirming the award dated 23.08.2021 passed in M.C.O.P.No.



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460 of 2018 by the Motor Accident Claims Tribunal / Special Sub Court dealing with MCOP Cases, Tirunelveli. No costs. Consequently, connected miscellaneous petition is closed.

**13.06.2024**

NCC: Yes / No  
Index: Yes / No  
Internet : Yes / No

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To

- 1.The Motor Accident Claims Tribunal / Special Sub Court dealing with MCOP Cases, Tirunelveli.
- 2.The Section Officer, Vernacular Records Section, Madurai Bench of Madras High Court, Madurai.



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**G.ILANGO VAN, J.**

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