



C.M.A.(MD) No.1020 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.09.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) No.1020 of 2024

and

C.M.P.(MD)No.10815 of 2024

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Office at No.2, Trivandrum Road,
Vannarpettai, Tirunelveli.

... Appellant

Vs.

Perumal.

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order passed in M.C.O.P.No.345 of 2023 dated 26.02.2024 on the file of the Motor Accidents Claims Tribunal cum Special Sub Court, Tirunelveli.

For Appellant : Mr.S.Micheal Heldon Kumar

For Respondent : Mr.V.Sakthivel

J U D G M E N T

The instant appeal has been filed challenging the quantum of compensation awarded by the Tribunal to the respondent.



C.M.A.(MD) No.1020 of 2024

2. Since the finding on negligence is not under challenge, the facts leading to the filing of the claim petition and the manner of the accident may not be necessary for the disposal of the said appeal.

3. The learned counsel for the appellant/Transport Corporation submitted that the respondent's leg was amputated and the Medical Board has issued a Disability Certificate assessing the permanent disability at 70%; and that the Tribunal ought not to have fixed the functional disability at 100% in the absence of any evidence to prove that the respondent had suffered functional disability.

4. The learned counsel for the respondent, per contra, submitted that the respondent had established that he was working as a Scavenger in a private company and because of the amputation, he was terminated from his employment and therefore, the assessment made by the Tribunal as regards the functional disability is in accordance with law and he prayed for dismissal of the appeal.

5. The only point for consideration in the instant appeal is '*whether the quantum of compensation awarded by the Tribunal is just and*



C.M.A.(MD) No.1020 of 2024

reasonable?'

WEB COPY

6. Admittedly, the respondent had suffered the following injuries:

- a. Right leg amputation,
- b. Complaint of pain, bleeding from right ankle.

7. The respondent had established that he was working as a Scavenger in a private company and because of the amputation, he was terminated from his employment. The respondent, who was doing physical labour, is bound to suffer functional disability because of the amputation. The appellant had not let in any contra evidence. In the light of the evidence let in on the side of the respondent, this Court is of the view that the finding of the Tribunal that the respondent suffered 100% functional disability cannot be faulted. The quantum of compensation awarded under other heads is not under challenge. Therefore, this Court is of the view that the award of the Tribunal is just and reasonable. The award of the Tribunal deserves to be confirmed and hence confirmed.

8. The appellant/Transport Corporation shall deposit the compensation amount of Rs.13,38,000/- (Rupees Thirteen Lakhs Thirty Eight Thousand only) together with interest at the rate of 7.5% per annum



C.M.A.(MD) No.1020 of 2024

from the date of the claim petition till the date of realization (excluding the period of dismissal for default if any) and proportionate costs, after deducting the amount already deposited if any, within a period of eight (8) weeks from the date of receipt of a copy of this order.

9. On such deposit, the respondent/claimant is entitled to withdraw the same by filing suitable application before the Tribunal, less the amount already withdrawn, if any, by filing appropriate application before the Tribunal.

10. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

25.09.2024

Index: Yes/ No

NCC: Yes / No

Speaking Order / Non-Speaking Order

apd

To:

1.The Motor Accidents Claims Tribunal cum Special Sub Court,
Tirunelveli.

2.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A.(MD) No.1020 of 2024

SUNDER MOHAN, J.

apd

C.M.A.(MD) No.1020 of 2024

25.09.2024