



C.M.A.(MD) No.1098 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.09.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) No.1098 of 2024

and

C.M.P.(MD) No.11460 of 2024

The Managing Director,
Tamil Nadu State Transport Corporation,
New Railway Junction Road,
Kumbakonam.

... Appellant

Vs.

V.Vijayakumar

... Respondent

Prayer: Civil Miscellaneous Appeal filed Section 173 of the Motor Vehicle Act, 1988, to set aside the orders dated 16.11.2023 passed in M.C.O.P.No.201 of 2022 on the file of the Motor Accidents Claims Tribunal cum Principal Sub Court, Kumbakonam.

For Appellant : Mr.S.Micheal Heldon Kumar

For Respondent : Mr.K.R.Shivashankari

J U D G M E N T

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



C.M.A.(MD) No.1098 of 2024

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

3. The learned counsel for the appellant/Transport Corporation submitted that the claimant had suffered amputation in his right leg and the Medical Board had assessed the disability at 70%. However, the Tribunal had assessed the functional disability at 100%, which is excessive and prayed for reduction of the compensation.

4. The learned counsel for the respondent, per contra, submitted that the respondent was working as a Mason and because of the amputation, he was unable to pursue his avocation and therefore, the finding of the Tribunal fixing the functional disability at 100% cannot be faulted.

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

6. The admitted fact is that the respondent was working as a Mason prior to the accident. The appellant had not let in any contra evidence. The



C.M.A.(MD) No.1098 of 2024

respondent had suffered amputation of his right leg which can be seen from the medical records filed by the respondent and the disability certificate/Ex.C1.

7. It is well settled that the functional disability has to be assessed based on the disability suffered by the respondent and the nature of the job performed by him prior to the accident. In the light of the admitted fact that he was doing physical labour as Mason and that his right leg was amputated and therefore, he was unable to continue his avocation, this Court is of the view that the finding of the Tribunal fixing functional liability at 100% is in accordance with the evidence and the law. Therefore, there is no infirmity in the finding of the Tribunal and thus, the compensation awarded by the Tribunal is liable to be confirmed and hence confirmed.

8. The appellant/Transport Corporation is directed to deposit the compensation of Rs.36,84,500/- (Rupees Thirty Six Lakhs Eighty Four Thousand and Five Hundred only), together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of realization (excluding the period of dismissal for default if any) and



C.M.A.(MD) No.1098 of 2024

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 is permitted to withdraw the same, less the amount already withdrawn, if any, by filing an appropriate application before the Tribunal.

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

26.09.2024

Index: Yes/ No
NCC: Yes / No
Speaking Order / Non-Speaking Order
apd

To:

1.The Motor Accidents Claims Tribunal cum Principal Sub Court,
Kumbakonam.

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



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C.M.A.(MD) No.1098 of 2024

SUNDER MOHAN, J.

apd

C.M.A.(MD) No.1098 of 2024

26.09.2024