



C.M.A(MD)No.870 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **15.07.2024**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.870 of 2017

Murugan

... Appellant/Petitioner

Vs.

Tamil Nadu State Transport Corporation Ltd.,
Through its General Manager,
Vannarapettai,
Tirunelveli.

... Respondent/Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 to enhance the award amount in M.C.O.P.No.542 of 2010 on the file of the Motor Accident Claims Tribunal (Additional Sub Court), Tirunelveli, dated 19.06.2015.

For Appellant : Mr.T.Selvakumaran

For Respondent : Mr.S.Micheal Heldon Kumar

JUDGMENT

The present appeal has been filed by the claimant challenging the award passed in M.C.O.P.No.542 of 2010 on the file of Motor Accident



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Claims Tribunal (Additional Sub Court), Tirunelveli seeking
enhancement of compensation.

2. The injured claimant had contended that he was a load man aged 45 years and he was earning a sum of Rs.5,000/- per month on the date of the accident. He had contended that on 31.03.2010, while he was standing on the road, a bus belonging to the respondent Transport Corporation was driven in a rash and negligent manner and dashed against him. In the said accident, he had sustained grievous injuries. Hence, he had prayed for a compensation of Rs.3,00,000/- with 12% interest.

3. A counter was filed by the Transport Corporation disputing the negligence and quantum.

4. The tribunal after considering the submissions on either side has arrived at a finding that the accident has taken place only due to the rash and negligent driving on the part of the driver of the Transport Corporation. The tribunal has fixed the notional monthly income at Rs. 3,500/-. The tribunal had fixed the disability at 35% based upon Exhibit



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P.9 disability certificate. Thereafter, proceeded to award a sum of Rs.

2,500/- for each percentage of disability and awarded a sum of Rs.

87,500/- under the head of partial permanent disablement. The award of the tribunal is as follows:

Transport expenses	: Rs. 3,000/-
Attender charges	: Rs. 3,000/-
Extra nourishment	: Rs. 3,000/-
Medical expenses	: Rs. 700/-
Partial loss of income	: Rs.10,500/-
Partial permanent disablement	: Rs.87,500/- (2500x35)
Pain and suffering	: Rs.30,000/-
Total	:Rs.1,37,700/-

5. Challenging this award, the claimant had filed this appeal seeking enhancement, primarily on the ground that the monthly notional income fixed by the tribunal is not correct. He had further contended that under the head of pain and suffering, additional amount should have been awarded. He further contended that no amount has been awarded for loss of amenities, despite the fact that the claimant has lost 3 teeth.

6. The learned counsel appearing for the respondent has contended



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that the tribunal has awarded reasonable compensation and there is no scope for any enhancement of compensation.

7. I have carefully considered the submissions made on either side and perused the material records.

8. The accident has taken place on 31.03.2010. The tribunal has fixed the notional monthly income of a loadman at Rs.3,500/- in view of the fact that no document or any evidence has been produced on the side of the claimant. Therefore, this Court does not find any reason to enhance the monthly notional income as fixed by the tribunal.

9. A perusal of the medical records indicate that the claimant had lost his 3 teeth in the upper jaw at the time of the accident. Therefore, it is clear that the petitioner has suffered loss of amenities and he may incur expenses for visiting the Dentist. Considering the above said fact, this Court is inclined to award a sum of Rs.25,000/- under the head of loss of amenities. Apart from that, this Court does not find any reason to enhance any amount under other heads.



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10. In view of the above said facts, the award of the tribunal is enhanced from Rs.1,37,700/- (Rupees One Lakh Thirty Seven Thousand and Seven Hundred) and to Rs.1,62,000/- (One Lakh Sixty Two Thousand and Seven Hundred). The enhanced amount, namely Rs. 25,000/- (Rupees Twenty Five Thousand only) shall carry 7.5% interest from 01.06.2017 onwards. On such deposit, the claimant would be entitled to withdraw the said amount. In other respects, the award of the tribunal stands confirmed.

11. The Civil Miscellaneous Appeal is partly allowed. No costs.

15.07.2024

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

1.The Motor Accident Claims Tribunal
(Additional Sub Court),
Tirunelveli.

2.The Record Keeper,
Vernacular Section,



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Madurai Bench of Madras High Court,
Madurai.

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R.VIJAYAKUMAR,J.

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Judgment made in
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