



C.M.A(MD)No.520 of 2024

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

DATED :06.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A(MD)No.520 of 2024

Kumar

... Appellant/Petitioner

Vs.

Tamilnadu State Transport Corporation Ltd.,
through its General Manager,
Ranithottam,
Nesamony Nager,
Nagercoil.

... Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award made in MCOP No. 886 of 2017 on the file of the Motor Accident Claims Tribunal, Authority, (Special Sub Judge), Tirunelveli, dated 28.11.2022.

For Petitioner : Mr.T.Selvakumaran

For Respondent : Mr.S.Micheal Heldonkumar



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JUDGMENT

This Civil Miscellaneous Appeal is filed by the claimant against the award, dated 28.11.2022 made in MCOP No.886 of 2017 on the file of the Motor Accident Claims Tribunal, (Special Sub Judge), Tirunelveli, seeking enhancement.

2.The appellant filed a claim petition before the Tribunal stating that on 04.01.2017 at about 12.45p.m., while he was riding his motorcycle bearing Registration No.TN-76-Z-6311 from South to North, a bus bearing Registration No.TN-74-N-1722 belonging to the respondent Corporation came from the opposite direction in a rash and negligent manner and hit against the motorcycle, as a result of which, he along with the pillion rider fell down on the road and sustained multiple injuries and fractures over the right leg, right forearm, right tibia and neck of fibula, right distal 3rd forearm.

3.The respondent herein filed a counter denying the averments made by the claimant and stated that the accident took



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place only due to the rash and negligent riding of the claimant and therefore, the respondent is not liable to pay compensation.

4.To substantiate the case, on the side of the claimant, the claimant examined himself as P.W.1 and two other witnesses as P.Ws.2 and 3 and 24 and marked Exs.P.1 to P.24. On the side of the respondent, the driver was examined as R.W.1 and no document was marked.

5.The Tribunal, after considering the oral and documentary evidence, held that the driver of the bus was the cause for the accident and awarded a compensation of Rs.14,66,322/- with interest at the rate of 7.5% p.a.

6.The learned counsel appearing for the appellant/claimant submitted that since the appellant had suffered 75% disability, the Tribunal ought to have adopted the multiplier method while calculating the compensation for disability. As regards the compensation under the head of pain and suffering, the



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Tribunal awarded a sum of Rs.1,00,000/- which is meagre and submitted that the Tribunal ought to have awarded a sum of Rs. 2,00,000/-.

7.Per contra, the learned counsel appearing for the respondent submitted that the accident took place in the year 2017 and hence, the compensation awarded at Rs.5,000/- per percentage of disability is on the higher side and submitted that the award of the Tribunal is just and reasonable and that apart, the claimant is still working as a Junior Engineer and therefore, the award of compensation by adopting the percentage method is just and reasonable.

8.This Court has carefully considered the rival submissions made by either side and also perused the materials available on record.

9.The only question involved in the instant appeal is whether the quantum of compensation awarded by the Tribunal is just and reasonable.



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10.It is a fact that the appellant/claimant is working as a Junior Engineer in TNEB and earning a monthly salary of Rs.54,500/- at the time of accident. It is not in dispute that the claimant is still employed and in such circumstances, the Tribunal was right in adopting the percentage method as the claimant has not suffered with any functional disability. The claimant was awarded a sum of Rs.5,000/- for a percentage of disability for the accident which took place in the year 2017. Considering the nature of the injuries, the period of treatment, the award under other heads in claiming towards pain and suffering by the Tribunal is just and reasonable and hence, need not be interfered with. Even under the head of loss of pain and suffering, the award cannot be enhanced.

11.Hence, this Court is of the view that the compensation awarded by the Tribunal is just and reasonable and no interference is called for. Hence, the Civil Miscellaneous Appeal is dismissed. No costs.

06.08.2024

NCC:Yes/No

Index : Yes / No

Internet : Yes / No



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SUNDER MOHAN, J.

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To

- 1.The Motor Accident Claims Tribunal,
Authority, (Special Sub Judge),
Tirunelveli,
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

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