



CMA No.102 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2025

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.Nos.102 of 2025

Senthil @ Srinivasan
S/o.Anbu

... Appellant

Vs.

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan Salai, Chennai-600 002.

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to set aside the judgement and decree, dated 19.10.2024, passed in MCOP.No.1759 of 2018, on the file of the Motor Accident Claims Tribunal, Chennai (In the Court of Small Causes, at Chennai).

For Appellant : M/s.Amar D.Pandiya
For Respondent : Mr.Murali Vinodh

JUDGMENT

The appellant has filed this appeal to set aside the judgement and decree, dated 19.10.2024, passed in MCOP.No.1759 of 2018, on the file of the Motor Accident Claims Tribunal, Chennai (In the Court of Small Causes, at Chennai).



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2. Challenging the award passed by the Tribunal, the claimant has preferred this appeal. Before the Tribunal, he filed an application claiming compensation for the accident, alleging that it was caused due to the negligent act of the respondent's bus driver. However, the Tribunal dismissed his claim, holding that the accident occurred due to the negligence of the claimant himself. Therefore, it held that he was not entitled to any compensation.

3. The learned counsel for the appellant submits that, at the time of the accident, the appellant was riding a two-wheeler when he was hit by the transport bus, which was driven by its driver in a rash and negligent manner. As a result, he sustained grievous injuries, which were proved through material evidence before the Tribunal. Without properly appreciating the same, the Tribunal erroneously dismissed his claim.

4. The learned counsel for the respondent raised objections, stating that, at the time of the accident, the claimant/appellant attempted to



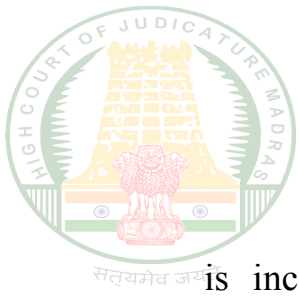
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overtake a lorry and, in doing so, dashed against the bus. Therefore, he himself caused the accident, and there was no negligence on the part of the bus driver. This, they argued, was rightly observed by the Tribunal and required no interference.

5. Upon considering the submissions of both sides and on perusal of the FIR, it is revealed that, immediately after the accident, the FIR was lodged by the grandmother of the injured. As per the FIR, at the time of the accident, the appellant attempted to overtake an MTC lorry and, in the process, caused the accident. It is further stated that the driver of the MTC lorry was also driving the vehicle in a rash and negligent manner, thereby contributing to the accident. Moreover, according to the evidence of RW1, the driver of the lorry, the claimant was riding the two-wheeler and attempted to overtake the lorry at the relevant time.

6. This establishes contributory negligence on the part of the appellant. However, since the appellant sustained injuries due to being hit by the lorry driven by the respondent's driver, the Tribunal failed to properly appreciate the manner in which the accident occurred. This Court



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is inclined to set aside the findings of the Tribunal. Nevertheless, contributory negligence to the extent of 20% is fixed on the part of the appellant.

7. The doctor (PW2) certified that the appellant suffered 40% disability, but it is noted that he was not treated as an inpatient. Considering the gravity of the injuries, this Court fixes 30% partial permanent disability. The compensation per percentage is fixed at Rs.7,000, therefore, $30\% \times \text{Rs.7,000} = \text{Rs.2,10,000/-}$. The accident occurred in the year 2017, this Court reasonably fixes the monthly income at Rs.12,000/- per month. Due to the accident, the appellant would have been unable to attend to his regular work for at least six months. Therefore, a sum of Rs. 72,000/- (Rs. 12,000 x 6 months) is awarded towards loss of income.

8. In addition, the claimant is entitled to Rs.30,000 towards 'Pain and sufferings', Rs.10,000/- towards 'Transportation Charges', and Rs.12,000/- towards Attender Charges. Thus, the total compensation



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payable to the claimant is Rs.3,59,000/- , calculated as follows:

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<i>Sl.No</i>	<i>Heads</i>	<i>Amount in Rs.</i>
1	Disability	2,10,000
2	Loss of Income	72,000
3	Pain and sufferings	30,000
4	Transportation Charges	10,000
5.	Extra Nourishment	10,000
6.	Attender Charges	12,000
7.	Loss of amenities	15,000
	<i>Total</i>	3,59,000

9. Since the claimant had contributed to the accident, 20% is deducted from the total Award amount. Hence, the claimant is entitled to a sum of Rs.2,87,200/- (i.e., Rs.3,59,000 – Rs.71,800 = Rs.2,87,200). This amount shall carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit.

10. In the result:

i. The Civil Miscellaneous Appeal is allowed. There shall be no order as to costs.

ii) The appellant/claimant is directed to pay the necessary court fee for the compensation amount, within a period of four weeks and the



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fee.

Registry is directed to draft the decree, after receipt of necessary court

iii. The respondent, Metropolitan Transport Corporation Ltd., Chennai-600 002, is directed to deposit the compensation amount fixed by this Court, i.e., Rs.2,87,200/-, together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit, to the credit of M.C.O.P. No.1759 of 2018 on the file of the Motor Accident Claims Tribunal, Chennai (In the Court of Small Causes, Chennai), within a period of eight weeks from the date of receipt or uploading of a copy of this order.

iv. On such deposit being made by the respondent, the appellant/claimant is at liberty to withdraw the same, after following due process of law.

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Index:Yes/No

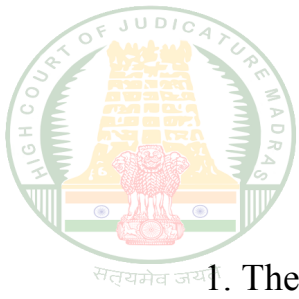
Speaking/non Speaking order

Neutral Case citation: yes/no

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1. The Motor Accident Claims Tribunal,
Chennai, (In the Court of Small Causes, at Chennai).

2.The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan Salai, Chennai-600 002.

3.The Section Officer, V.R. Section,
High Court of Madras.

T.V.THAMILSELVI, J.



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