



C.M.A.No.1920 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.1920 of 2013

and

M.P.No.1 of 2013

Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram (Division) Ltd.,
Kancheepuram.

... Appellant

Vs.

1.P.Velmurugan

2.Metropolitan Transport Corporation Ltd.,
Rep. by its Managing Director, Chennai.

3.Tamil Nadu State Corporation Ltd.,
Rep. by its Managing Director, Villupuram. ... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the order in M.C.O.P.No.3604 of 2003 on the file of Motor Accident Claims Tribunal, V Judge Small Causes Court, Chennai dated 24.11.2011.

For Appellant : Mr.S.S.Santhosh Kumar

For Respondents : M/s.N.Lavanya [R1]
Given up [R2 & R3]

JUDGEMENT



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Challenging the award passed by the Motor Accident Claims

WEB COPY Tribunal, V Court of Small Causes, Chennai in M.C.O.P.No.3604 of 2003, dated 24.11.2011 on the grounds of negligence and quantum of compensation, the Transport Corporation has filed the appeal.

2. The facts in brief are as follows :-

On 11.01.2002 at about 14.30 hours, when the petitioner was proceeding in his bi-cycle on Old Perungalathur, near check post, the TNSTC Bus bearing Regn.No.TN-21-D-0137 belonging to the 3rd respondent, driven by its driver in a rash and negligent manner came from behind and dashed against the petitioner, due to which, he sustained injuries. Hence, he filed a claim petition claiming a sum of Rs.11,00,000/- as compensation for the injuries sustained by him in the said road accident.

3. Before the Tribunal, the claimant had examined himself as P.W.1 and examined the doctor as P.W.2 and marked 10 documents viz., Ex.P.1 to Ex.P.10. On the side of the respondents, they have examined one witness viz., R.W.1, but no documents were marked. After adjudication, the Tribunal awarded a sum of Rs.3,03,500/- as

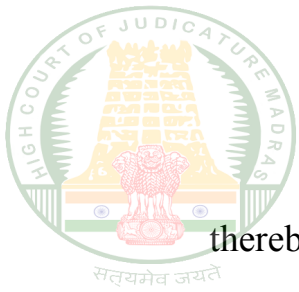


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compensation in favour of the claimant. Aggrieved by the same, the appellant/Transport Corporation has filed the present appeal.

4. Learned counsel appearing for appellant/Transport Corporation submitted that, the 1st respondent/claimant had driven the bi-cycle and dashed against the appellant's bus, thereby, the accident had happened, however, the Tribunal had fastened the entire negligence on the driver of the bus, which is wholly unsustainable. Further, he submitted that, for the injuries sustained by the 1st respondent/claimant, the compensation awarded by the Tribunal under various heads is highly excessive, since the disability was not assessed by the treated doctor and at the relevant point of time, per percentage of disability is Rs.1,000/-. Accordingly, he prays for allowing the appeal.

5. Learned counsel appearing for the 1st respondent/claimant submitted that, the driver of the appellant's bus driven in a rash and negligent manner and dashed against the rear side of the bi-cycle, thereby, the 1st respondent sustained injuries and his left leg was fractured, for which, the doctor assessed the percentage of disability at 40%. At the relevant point of time, no medical board was constituted,



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thereby, the doctor assessed disability and on that basis, the Tribunal awarded Rs.80,000/- towards permanent disability, which is just and reasonable and so also the compensation awarded under the other heads. Accordingly, he prays for dismissal of the appeal.

6. Heard the learned counsel appearing for the appellant/Transport Corporation as well as the 1st respondent/claimant and also perused the materials available on record.

7. There is no quarrel that the 1st respondent/claimant had sustained injuries, as a result of the accident, in which the bus belongs to the appellant/Transport Corporation was involved. The Tribunal, considering the materials placed before it has rightly come to the conclusion that it was due to the rash and negligent driving of the driver of the offending vehicle, the accident had happened and therefore, it is the duty of the appellant/Transport Corporation to compensate the 1st respondent/claimant. Therefore, on that point, no interference is warranted and the finding recorded by the Tribunal is confirmed.

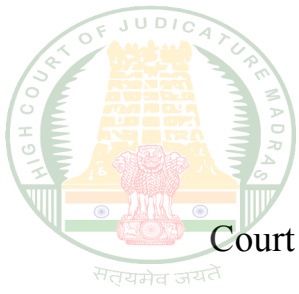


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8. Now, coming to the question of quantum of compensation

awarded by the Tribunal, it is borne from the award that the doctor/P.W.2 has deposed that he examined the 1st respondent/claimant and on the basis of wound certificate, he assessed the disability of the claimant at 45%. Considering the nature of injuries and fracture sustained by the claimant and the fact that the opinion of disability varies from doctor to doctor, the Tribunal had assessed the disability at 40% and awarded a sum of Rs.80,000/- towards permanent disability by erroneously adopting a sum of Rs.2,000/- per percentage of disability. As per the existing law at the relevant point of time, the Tribunal ought to have fixed a sum of Rs.1,000/- per percentage of disability. However, this Court is inclined to fix a sum of Rs.1,500/- per percentage of disability. Therefore, the compensation awarded under the head permanent disability stands enhanced to a sum of Rs.60,000/- (40 x Rs.1,500/- = Rs.60,000/-).

9. Further, the Tribunal had awarded a sum of Rs.40,000/- towards pain and suffering; Rs.98,230/- towards medical expenses; Rs.15,000/- towards extra nourishment; Rs.5,000/- towards transport to hospital; Rs.25,000/- towards attender charges; Rs.25,000/- towards loss of studies and Rs.15,000/- towards conveyance charges to attend the school. This



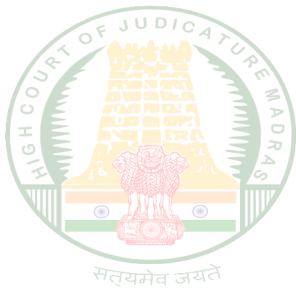
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Court is of the view that the compensation awarded under the head medical expenses is just and reasonable and the same is confirmed.

10. Insofar as the compensation awarded under the head attender charges, this Court is of the view that the same is on the higher side and same is reduced to a sum of Rs.20,000/-. Further, considering the nature of injuries sustained by the 1st respondent, this Court is inclined to merge the heads loss of studies and conveyance charges to attend the school and this Court is of the view that a sum of Rs.25,000/- would be just and reasonable compensation towards the said head. At the same time, the compensation under the heads pain and suffering, extra nourishment, transport to hospital are on the lower side and accordingly, the compensation awarded under the said heads are enhanced to a sum of Rs.50,000/-, Rs.30,000/ and Rs.10,000/- respectively.

11. In view of the above, the compensation awarded by the Tribunal is modified as under :-

<i>S. No.</i>	<i>Description</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
1	Permanent Disability	80,000/-	60,000/- (reduced)



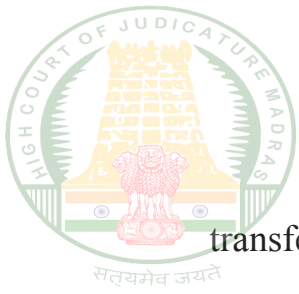
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<i>S. No.</i>	<i>Description</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
2	Pain and suffering	40,000/-	50,000/- (enhanced)
3	Medical expenses	98,230/-	98,230/-
4	Extra Nourishment	15,000/-	30,000/- (enhanced)
5	Transport to Hospital	5,000/-	10,000/- (enhanced)
6	Attender Charges	25,000/-	20,000/- (reduced)
7	Loss of studies & Conveyance charges to attend the school	25,000/- 15,000/-	25,000/-
	Total	3,03,230/-	2,93,230/-
	Rounded off to	3,03,500/-	2,93,500/-

12. Accordingly, the Civil Miscellaneous Appeal is partly allowed and the impugned award passed by the Tribunal is modified, reducing the compensation amount from **Rs.3,03,500/-** to **Rs.2,93,500/-**. The appellant/Transport Corporation is directed to deposit the said amount to deposit to the credit of M.C.O.P.No.3604 of 2003 along with interest at the rate of 7.5% per annum from the date of impleading the appellant/3rd respondent i.e., 26.06.2008, till the date of deposit along with costs as awarded by the Tribunal, less, the amount, already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to



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transfer the same directly to the bank account of the 1st

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respondent/claimant through RTGS within a period of two (2) weeks thereafter. It is made clear that the 1st respondent/claimant is not entitled to interest for the default period from 13.4.2010 to 7.7.2011 as ordered by the Tribunal. No costs. Consequently, the connected miscellaneous petition is closed.

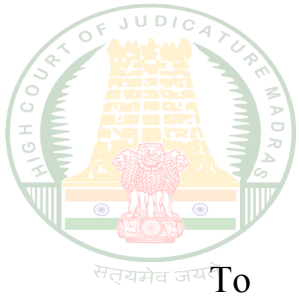
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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

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To
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M.DHANDAPANI, J.

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