



C.M.A.No.386 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2025

CORAM

THE HON'BLE Mr. JUSTICE S. SOUNTHAR

C.M.A.No.386 of 2023

S.Vasanthakumar

.. Appellant

Vs.

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

.. Respondent

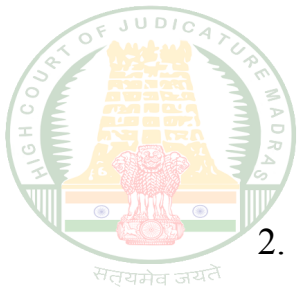
Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 22.01.2019 passed by the Principal Special Judge, Special Court under E.C. & NDPS Act, Chennai/Motor Accident Claims Tribunal, Chennai, in M.C.O.P.No.1763 of 2013.

For Appellant : Mr.K.R.Ponnusamy

For Respondent : Mr.Anton Dhanasekaran

### **J U D G M E N T**

Not satisfied with the quantum of compensation fixed by the Motor Accident Claims Tribunal, the injured/claimant has come before this Court by way of this appeal.

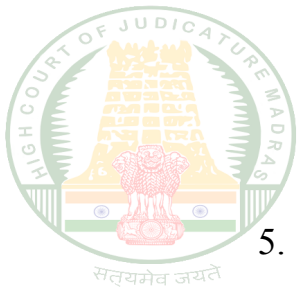


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2. It is the case of the appellant/claimant that he travelled in a bus belonging to the respondent Corporation on 30.08.2012 and due to the rash and negligent driving on the part of the driver of the respondent Corporation, he fell down from the bus and sustained grievous injuries. Hence, he filed a claim petition before the Tribunal claiming compensation of Rs.6,00,000/-.

3. The respondent Corporation filed a counter and opposed the claim petition on the ground that the claimant travelled on the footboard and hence, he also contributed to the accident.

4. The Tribunal, on appreciation of the evidence available on record, came to the conclusion that the accident had occurred only due to the negligence of the driver of the respondent Corporation. The Tribunal also observed that in the event of the claimant travelling on the footboard, the driver of the bus ought not to have continued to drive the bus and he should have halted the bus and asked the appellant to get into the bus. The compensation payable to the claimant was quantified by the Tribunal at Rs.1,37,000/-. Not satisfied with the quantum of compensation, the claimant has filed this appeal.

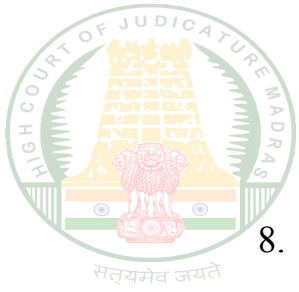


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5. The learned counsel appearing for the appellant/claimant submitted that the claimant suffered depressed fracture in the left frontal bone and hence, he was in continuous treatment for many days. The learned counsel further submitted that taking into consideration the nature of the injury suffered by the claimant, the compensation awarded by the Tribunal is very much on the lower side and therefore, the same has to be enhanced.

6. The learned counsel appearing for the respondent Corporation submitted that the claimant has taken treatment in the Government Hospital and incurred no medical expenses. He further submitted that having regard to the nature of the accident, the Tribunal, rightly fixed the compensation at Rs.1,37,000/- and the same requires no enhancement.

7. It was averred in the claim petition that the claimant was a school going student. It is seen from the Discharge Summary (Ex.P1), the age of the claimant was mentioned as 14 years and the School Transfer Certificate (Ex.P8) issued to the claimant would indicate that he was born on 22.05.1999. The accident had occurred on 30.08.2012. Therefore, at the time of accident, the claimant was only 13 years old. In the case of children, it is very difficult to assess the compensation payable for the disability suffered.



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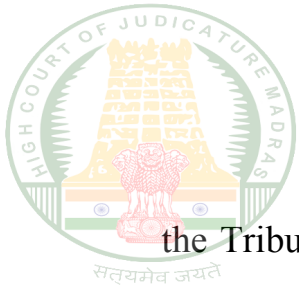
8. The Apex Court, in *Master Mallikarjun Vs. Divisional Manager, National Insurance Co. Ltd. and Another [(2014)14 SCC 396]*, while considering the assessment of compensation in the case of children, observed that if the disability is 30% to 60%, the appropriate compensation shall be Rs.4,00,000/-. In the case on hand, the Disability Certificate (Ex.P11) issued to the claimant would suggest that he suffered 35% disability. Therefore, as per the law laid down by the Apex Court in *Mallikarjun's* case cited *supra*, a sum of Rs.4,00,000/- shall be awarded to the claimant towards disability, pain and suffering and loss of amenities.

9. As per the law laid down in *Mallikarjun's* case cited *supra*, an additional sum can be awarded under the head discomfort, inconvenience and loss of earning to the parents during the period of hospitalisation. It is seen from the Discharge Summary (Ex.P1), the claimant was hospitalised for 8 days from 30.08.2012 to 06.09.2012. It is also seen that the claimant has been under the treatment for some more time. Therefore, the parents of the claimants are entitled to a sum of Rs.20,000/- under the head discomfort, inconvenience and loss of earning. The award passed by the Tribunal is set aside and the following amount is awarded by this Court towards compensation:



| S.No. | Description                                              | Amount awarded by Tribunal (Rs.) | Amount awarded by this Court (Rs.) | Award confirmed or enhanced or granted |
|-------|----------------------------------------------------------|----------------------------------|------------------------------------|----------------------------------------|
| 1     | Transport to hospital                                    | 3,000                            | --                                 | Set aside                              |
| 2     | Extra nourishment                                        | 3,000                            | --                                 | Set aside                              |
| 3     | Damage to clothing                                       | 1,000                            | --                                 | Set aside                              |
| 4     | Pain and Suffering                                       | 25,000                           | --                                 | Set aside                              |
| 5     | Continuing of permanent disability                       | 1,05,000                         | --                                 | Set aside                              |
| 6     | Disability, pain and suffering and loss of amenities     | --                               | 4,00,000                           | Granted                                |
| 7     | Discomfort, inconvenience and loss of earning to parents | --                               | 20,000                             | Granted                                |
|       | <b>Total</b>                                             | <b>1,37,000</b>                  | <b>4,20,000</b>                    | <b>Enhanced by Rs.2,83,000</b>         |

10. In all, the claimant is entitled to Rs.4,20,000/- as compensation as against the compensation of Rs.1,37,000/- awarded by the Tribunal. Accordingly, this Civil Miscellaneous Appeal is partly allowed and the compensation is enhanced from Rs.1,37,000/- to Rs.4,20,000/-. The respondent Corporation is directed to deposit the enhanced award amount to the credit of M.C.O.P.No.1763 of 2013 on the file of the Special Court under E.C. & NDPS Act, Chennai/Motor Accident Claims Tribunal, Chennai, along with interests and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of copy of this judgment. On such deposit, the appellant/claimant is permitted to withdraw the same subject to satisfaction of



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the Tribunal with regard to attainment of majority by the claimant, along with interest and costs, less the amount if any, already withdrawn by filing a formal application before the Tribunal. No costs.

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Index : Yes / No  
Neutral Citation : Yes/No  
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1. The Principal Special Judge  
Special Court under E.C. & NDPS Act  
(Motor Accidents Claims Tribunal)  
Chennai

2.The Section Officer  
V.R. Section  
Madras High Court



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S. SOUNTHAR., J.

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