



C.M.A.No.3001 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 21.03.2025

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

C.M.A. No. 3001 of 2023

and

C.M.P. No. 28377 of 2023

The Managing Director,
Karnataka State Transport Corporation Ltd.,
Santhi Nagar, K.H.Road,
Bengaluru, Karnataka State – 560 027.

... Appellant

Vs.

Dhanasekaran
S/o. Mr. Madhan,
No.1/177, Kudimenahalli Village,
Agaram Post, Pochampalli Taluk,
Krishnagiri District, now residing at
Govinda Chetty Street,
Kaveripattinam Post,
Krishnagiri Taluk and District.

... Respondent



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PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 21.09.2022 made in M.C.O.P.No.204 of 2019 on the file of the Motor Accident Claims Tribunal (Special Subordinate Judge) at Krishnagiri.

For Appellant : Mr. T. Thiyagarajan.

For Respondent : Mr. T. Panchatsaram.

J U D G M E N T

(Delivered by Dr. A.D. Maria Clete, J)

The Civil Miscellaneous Appeal has been filed by the appellant, KSRTC, challenging the award dated 21.09.2022 passed by the Motor Accident Claims Tribunal (Special Subordinate Judge), Krishnagiri, in M.C.O.P.No.204 of 2019. The Tribunal awarded a compensation of Rs.36,37,512/- to the claimant for the injuries sustained in the road traffic accident involving the KSRTC bus bearing registration No. KA 57 F 1061.

2. **Brief Facts:** On 09.06.2018, the respondent was riding a Pulsar two-wheeler bearing Reg.No. TN 29 AK 1039 on the Uthangarai to Mathur road when the



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KSRTC bus bearing Reg.No. KA 57 F 1061, belonging to the appellant, and driven in a rash and negligent manner, collided with the motorcycle, causing grievous injuries to the respondent/claimant. As a result of the accident, the respondent sustained multiple injuries, including fractures and internal damage, and underwent extensive medical treatment at various hospitals. Consequently, the respondent claimed a total compensation of Rs.75,00,000/-.

3. The appellant filed a counter, denying the averments made in the claim petition, contending that the respondent had driven the vehicle in a rash and negligent manner and did not possess a valid driving license. The appellant further claimed that the injuries sustained were simple in nature and, therefore, the respondent was not entitled to any compensation, seeking the dismissal of the petition.

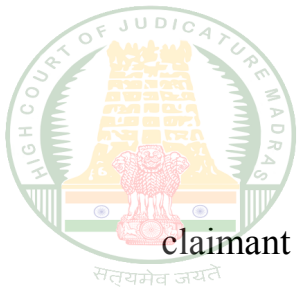
4. In support of the claim, the respondent examined himself as PW1 and marked Ex.P.1 to Ex.P.7 as documentary evidence. On the appellant's side, the driver of the bus was examined as RW1, and the District Medical Board Report issued by the Government Headquarters Hospital, Krishnagiri, was marked as Ex.C.1.



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WEB 5. After thoroughly considering the pleadings, oral evidence, and documentary records, the Tribunal awarded a sum of Rs.36,37,512/- as compensation to the respondent, payable by the appellant, after deducting 10% towards non-possession of a valid driving license by the respondent. Aggrieved by the said order, the appellant has preferred the present appeal.

6. The primary grounds of appeal raised by the appellant are as follows: The Tribunal erred in attributing negligence solely to the driver of the KSRTC bus without properly appreciating the evidence and the counter-statement filed by the appellant. The Tribunal overlooked the fact that the accident occurred solely due to the claimant's negligence in rashly riding the motorcycle and colliding with the bus. The Tribunal erroneously fixed 45% functional disability without adequate proof or supporting medical evidence. The Tribunal wrongly awarded compensation under various heads, including future medical expenses, without substantiating evidence. The compensation awarded under heads such as transportation, loss of amenities, additional nourishment, and attender charges were excessive. The Tribunal failed to consider the contributory negligence of the



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claimant and did not properly analyze the evidence, including the Motor Vehicle Inspector's (MVI) report.

7. Heard the parties and perused the materials available on record.

8. The learned counsel for the appellant submitted that Ex.P.4 clearly indicates that the front side of the square glass of the lorry was broken and the front right body sheet side was dented as the respondent has dashed the lorry and thus, the entire contributory negligence is on the part of the respondent and hence, the driver of the bus is not responsible for the accident. It is further submitted that the respondent's movement was not crippled due to accident and hence, 45% adopted towards functional disability has to be set aside and the income of the respondent has been fixed at Rs.9,000/- without any basis and the same needs an interference. It is further submitted that the compensation awarded on the other heads are highly excessive and sought for allowing the appeal.



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9. On the other hand, the learned counsel for the respondent submitted that the accident has occurred solely due to the negligence of the driver of the bus who has driven the bus in a rash and negligent manner and dashed on the respondent and an FIR has also been registered in Cr.No.201 of 2018 stating that the negligence is on the driver of the bus. Hence, the award of the tribunal does not warrant any interference and sought for dismissing the appeal.

10. The questions that arise are whether the Tribunal was right in fixing negligence on the driver of the KSRTC bus? Whether the quantum of compensation awarded by the Tribunal is excessive? Whether any modification is warranted in the award amount.

11. Upon perusal of the records and evidence available, it is clear that the Tribunal correctly assessed the accident as being caused by the rash and negligent driving of the KSRTC bus driver. The MVI report and other evidence corroborated that the bus was driven negligently, leading to the collision. There is no substantial reason to interfere with the finding of negligence fixed by the Tribunal.



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12. Regarding the quantum of compensation, the Tribunal awarded a total sum of

Rs.36,37,512/- after deducting 10% for non-possession of a valid driving license.

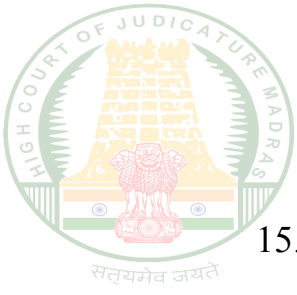
The Tribunal correctly applied the principles laid down by the Hon'ble Supreme Court in Sarla Verma and Pranay Sethi cases in calculating loss of earning capacity and future prospects.

13. However, it is noted that the Tribunal awarded a sum of Rs.1,00,000/- under the head of "Loss of Amenities." After thoroughly analyzing the nature of injuries, medical records, and evidence, this Court finds that awarding Rs.50,000/- under the said head would suffice to meet the ends of justice. Therefore, the compensation under the head of "Loss of Amenities" is reduced from Rs.1,00,000/- to Rs.50,000/-.

14. Consequently, the total compensation amount is reduced from Rs.36,37,512/- to Rs.35,87,512/- and the revised compensation is as follows:



S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1	Loss of earning capacity	Rs.1,156,680	Rs.1,156,680	Confirmed
2	Medical Expenses	Rs.2,234,000	Rs.2,234,000	Confirmed
3	Future Medical Expenses	Rs.100,000	Rs.100,000	Confirmed
4	Pain and Suffering	Rs.200,000	Rs.200,000	Confirmed
5	Transportation expenses	Rs.150,000	Rs.150,000	Confirmed
6	Additional nourishment	Rs.50,000	Rs.50,000	Confirmed
7	Damages to the cloths	Rs.1,000	Rs.1,000	Confirmed
8	Attender Charges	Rs.50,000	Rs.50,000	Confirmed
9	Loss of amenities	Rs.100,000	Rs.50,000	Reduced
	Total Compensation	Rs.4,041,680		
	After deducting 10% towards non-possession of driving license	Rs.3,637,512	Rs.3,587,512	Reduced



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15. In the result, the Civil Miscellaneous Appeal filed by the appellant is partly allowed to the extent indicated above. The appellant is directed to deposit the award amount now determined by this Court, together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit (less the default period, if any) along with interest and costs, if not already deposited and withdraw the excessive amount already deposited if any, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit, the respondent is permitted to withdraw the award amount along with proportionate interest and costs, less the amount if any, already withdrawn. No costs. Consequently, the connected miscellaneous petition is closed.

(R.S.K., J) (A.D.M.C., J)

21.03.2025

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To

1.The Motor Accident Claims Tribunal,
Special Subordinate Court,
Krishnagiri.

2.The Section Officer,

9/12



VR Section,
High Court of Madras,
Chennai.

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