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C.M.A.No.670 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	04.06.2025
Pronounced on	03.07.2025

CORAM

**THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN
THILAKAVADI,J.**

C.M.A.No.670 of 2023

Sampath

...Appellant

Vs.

Managing Director,
Karnataka State Road Transport Corporation,
Bangalore

...Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act,1988, praying to set aside the decree and judgment passed in MACT O.P. No.1420 of 2017 dated 04.11.2019 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Tiruvannamalai.

For Appellant : Mr. F. Terry Chella Raja

For Respondent : Mr. T.Thiyagarajan



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JUDGMENT

Seeking enhancement of compensation awarded by judgment and decree dated 04.11.2019 passed in M.A.C.T.O.P. No.1420 of 2017 on the file of the Motor Accident Claims Tribunal, Special Sub Judge, Thiruvannamalai, the injured/claimant has filed this Civil Miscellaneous Appeal.

2. For the sake of convenience, the parties herein are referred to as per their ranking before the Claims Tribunal.

3. The brief facts of the case are follows:

3.1. On 04.04.2017 at about 2 a.m the appellant/claimant was travelling in a bus bearing Registration No.KA-40-F-1090 belonging to the respondent/Karnataka State Transport Corporation from Thiruvannamalai to Hosur, which was driven by its driver in a rash negligent manner and hit the Tanker lorry from behind, as a result of which, the appellant/claimant sustained injuries all over his body and was admitted as inpatient in Hosur Government Medical College Hospital and thereafter he has taken treatment at many private hospitals.



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3.2. According to the claimant, the rash and negligent driving of the driver of the bus bearing Registration Number KA-40-F-1090 belonging respondent was the cause of the accident and therefore they are liable to pay compensation to him. Hence he filed a claim petition before the Tribunal claiming a sum of Rs.10,00,000/- for the injuries sustained by him in the said accident.

4. Before the Claims Tribunal, the claimant examined himself as P.W.1 and marked Ex.P1 to Ex.P7. On the side of the respondent D.W.1 was examined and no documentary evidence was marked. Ex.C1 was marked.

5. The Tribunal, after analysing the evidence on record, fastened negligence on the part of the offending bus bearing Registration Number No.KA-40-F-1090 and directed the respondent / Transport Corporation to pay compensation of Rs.1,55,858/- to the appellant/claimant together with interest at the rate of 7.5% per annum from the date of the petition till the date of realisation.



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6. Aggrieved over the quantum of compensation, the claimant has filed the present appeal .

7. The learned counsel for the appellant/claimant would contend that the Claims Tribunal awarded a meagre amount of compensation of Rs.1,55,858/- as against the total claim of Rs.10,00,000/- without considering the age and occupation of the injured. It is submitted that at the time of accident, the injured was aged about 38 years and was working as a Manger in a Tomato mandi earning a sum of Rs.25,000/- per month. Whereas, the Tribunal has fixed the notional monthly income of the claimant only at Rs.6,000/-, which according to the claimant is very low. His further submission is that the Claims Tribunal failed to consider the nature of injuries sustained by the claimant and the disability which resulted in loss of earning capacity. It is also submitted that the Tribunal ought to have assessed the loss of earning capacity of the claimant by applying multiplier method considering the nature of injuries sustained by the claimant. He would further submit that the Tribunal ought to have awarded more compensation under the heads of

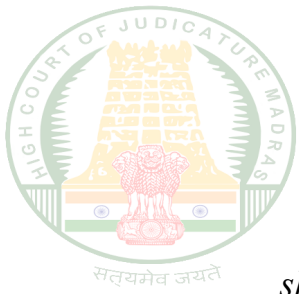


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disability, pain and sufferings, loss of amenities, transportation and damages, medical expenses and loss of income for two months. Hence prayed for enhancement of compensation to the claimant. He also placed reliance on the judgment of the Hon'ble Supreme Court in ***Raj Kumar Vs. Ajay Kumar and Another*** reported in ***CDJ 2010 SC 1153*** , wherein it has been held as follows.

8. Where the claimant suffers a permanent disability as a result of injuries, the assessment of compensation under the head of loss of future earnings, would depend upon the effect and impact of such permanent disability on his earning capacity. The Tribunal should not mechanically apply the percentage of permanent disability as the percentage of economic loss or loss of earning capacity. In most of the cases, the percentage of economic loss, that is, percentage of loss of earning capacity, arising from a permanent disability will be different from the percentage of permanent disability. Some Tribunals wrongly assume that in all cases, a particular extent (percentage) of permanent disability would result in a corresponding loss of earning capacity, and consequently, if the evidence produced



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show 45% as the permanent disability, will hold that there is 45% loss of future earning capacity. In most of the cases, equating the extent (percentage) of loss of earning capacity to the extent (percentage) of permanent disability will result in award of either too low or too high a compensation. What requires to be assessed by the Tribunal is the effect of the permanently disability on the earning capacity of the injured; and after assessing the loss of earning capacity in terms of a percentage of the income, it has to be quantified in terms of money, to arrive at the future loss of earnings (by applying the standard multiplier method used to determine loss of dependency). We may however note that in some cases, on appreciation of evidence and assessment, the Tribunal may find that percentage of loss of earning capacity as a result of the permanent disability, is approximately the same as the percentage of permanent disability in which case, of course, the Tribunal will adopt the said percentage for determination of compensation (see for example, the decisions of this court in Arvind Kumar Mishra v.



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New India Assurance Co.Ltd. - 2010(10) SCALE 298 and Yadava Kumar v. D.M., National Insurance Co. Ltd. - 2010 (8) SCALE 567).

21. As the income of the appellant is assessed at Rs.18000/- per annum, the loss of earning due to functional disability would be 20% of Rs.18000/- which is Rs.3600/- per annum. As the age of appellant at the time of accident was 25, the multiplier applicable would be 18. Therefore, the loss of future earnings would be $3600 \times 18 = \text{Rs.}64,800/-$ (as against Rs.55,080/- determined by the Tribunal). We are also of the view that the loss of earning during the period of treatment (1.10.1991 to 16.6.1992) should be Rs.12750/- at the rate of Rs.1500/- for eight and half months instead of Rs.3600/- determined by the Tribunal. The increase under the two heads is rounded off to Rs.20,000/-.

8. On the other hand, the learned counsel for the respondent/Transport Corporation submits that the Claims Tribunal had



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awarded just compensation to the claimant, which requires no interference by this Court.

9. Heard on both sides and perused the records.

10. Finding regarding factum of accident and the manner of accident were not disputed and hence, the findings of the Tribunal are hereby confirmed.

11. As per Ex.C1 disability Certificate, the claimant suffered 20% permanent disability. The Claims Tribunal has accepted the same and awarded compensation accordingly. Taking note of the injuries mentioned in the Medical records and in the disability certificate, I hold that it is not a functional disability. The claimant has not established that he is suffering functional disability due to the injuries sustained by him in the said accident. The said extent of permanent disability of the limb could not be considered to be the functional disability of the body nor could it be assumed to result in a corresponding extent of loss of earning capacity, as the disability would not



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have prevented him from carrying on his avocation as a Manager of Tomato Mandi, though it might impede in his smooth functioning. Hence multiplier method is not warranted.

11.1. The Tribunal has fixed Rs.3,000/- per percentage of disability and awarded a sum of Rs.60,000/- (20 x 3000) towards permanent disability. The percentage method applied by the Tribunal is sustained. However, considering the year of accident, this Court finds it appropriate to fix a sum of Rs.5,000/- for each percentage of disability. Accordingly, a sum of Rs.1,00,000/- (20x5000) is awarded towards permanent disability. However, the compensation awarded in the other heads are confirmed.

11.2. The following tabular column would show the amount awarded by the Tribunal and the enhanced amount awarded by this Court.

S.No.	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)
1.	Disability	60,000/- (20x3000)	1,00,000/- (20x5000)



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S.No.	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)
2.	Pain and sufferings	25,000/-	25,000/-
3.	Loss of amenities	15,000/-	15,000/-
4.	Extra nourishment and damages	20,000/-	20,000/-
5.	Medical expenses	18,858/-	18,858/-
6.	Transportation expenses	5,000/-	5,000/-
7.	Loss of income (2 months)	12,000/-	12,000/-
	Total	1,55,858/-	1,95,858/-

12. In the result,

- i. The appeal is partly allowed. No costs.
- ii. The compensation awarded by the tribunal is enhanced to Rs.1,95,858/- from Rs.1,55,858 /-.
- iii. The respondent/Karnataka State Road Transport corporation, Bangalore, is directed to deposit the enhanced compensation of Rs.1,95,858/- along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, less the amount already



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deposited by them, within a period of four weeks from the date of receipt of a copy of this order.

- iv. On such deposit being made, the claimant is permitted to withdraw the same on making appropriate application before the Tribunal.
- v. The appellant / claimant is directed to pay court fee for the enhanced compensation amount, if any, within a period of four weeks from the date of this order and the Registry is directed to draft the decree only after receipt of the Court fee.
- vi. The appellant/claimant is not entitled to claim any interest for the period of delay, if any, in filing this appeal.

03.07.2025

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Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order

K.GOVINDARAJAN THILAKAVADI, J.

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To

1. Motor Accident Claims Tribunal, Special Sub Court, Tiruvannamalai.
2. The Section Officer,
VR Section,
High Court, Madras.

Pre-delivery Judgment made in

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