

CMA. No.680 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2025

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.680 of 2023

Sekar

... Appellant

Versus

The Managing Director,
Tamil Nadu State Transport Corporation, (VPM Div) Ltd.,
Kancheepuram Region,
Kancheepuram.

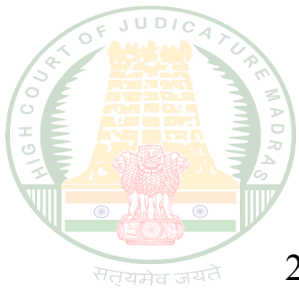
... Respondent

PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988), against the decree and judgement dated 13.12.2021 made in M.C.O.P.No. 6711 of 2018 in the court of the Principal Special Judge, Special Court under E.C and NDPS Act, Chennai 104.

For Appellant : Mr. U. Chithambaram
For Respondent : Mr. C.R. Suresh Kumar

J U D G M E N T

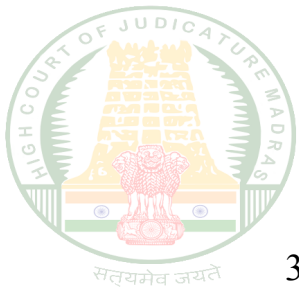
Challenging the award passed by the Motor Accident Claims Tribunal (VI Small Causes Court), Chennai in M.C.O.P. No. 6711 of 2018 dated 13.12.2021, the appellant/claimant has preferred this appeal.



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2. As per the claim statement, on 04.10.2018 at about 20.00 hours, when the claimant was walking in the left side of the road at Othiyur Village, a bus belonging to the respondent Corporation bearing Registration No. TN-21-N-1497 was driven by its driver in a rash and negligent manner and hit the claimant. Due to such impact, the claimant suffered multiple injuries all over the body. The claimant was taken to Chettinad Super Specialty Hospital, Kelambakkam, Chennai where he had undergone treatment from 07.10.2018 till 19.10.2018. During the course of treatment, no surgery was underwent by the claimant. However, as per the discharge summary, Ex.P2, the claimant suffered diffuse brain injury and fracture of 2nd to 7th ribs left side with aspiration pneumonia malunited fracture. Due to the injuries suffered, even after discharge from the hospital, the claimant experienced occasional headache, vomiting, giddiness, transit amnesia and difficulty in breathing on exertion, repeated attacks of chest infection due to fibrosis of lung. Therefore, the disability of the claimant was assessed at 35%. Consequently, for the injuries suffered by the claimant, he filed a claim petition claiming a sum of Rs.20 lakhs as compensation.



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3. On notice, the respondent Corporation opposed the claim petition by stating that on the date of accident, the claimant, who was walking on the road, darted onto the road on the right side, without noticing the bus. Therefore, it was the claimant who had contributed the accident, and the driver of the bus was not at fault. Even though a First Information Report was registered against the driver of the bus belonging to the respondent, the mere filing of the First Information Report would not be a reason to hold that the accident was caused due to the rash and negligent driving of the driver of the bus. Accordingly, the respondent prayed for dismissal of the claim petition.

4. Before the Tribunal, on behalf of the claimant, the claimant examined himself as P.W.1, and a Doctor was examined as P.W.2. Exs.P1 to P9 were marked. On behalf of the respondent, a witness was examined as R.W.1, but no documentary evidence was marked.

5. After hearing both sides and analyzing the entire oral and documentary evidence adduced before the Tribunal, the following compensation was awarded :-



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<i>Sl.No</i>	<i>Heads</i>	<i>Amount</i>
1.	Permanent Disability	Rs.1,05,000/-
2.	Loss of Earnings	Rs.36,000/-
3.	Pain and Sufferings, Extra Nourishment and Medical Transportation.	Rs.15,000/-
4.	Medical Expenses	Rs.2,26,000/-
	Total	Rs.3,82,000/-

6. The learned counsel for the appellant submits that the Tribunal without taking note of the fact that the accident took place in the year 2018, erroneously awarded a sum of Rs.3,000/- per percentage of disability to arrive at a sum of Rs.1,05,000/- towards loss of earning power, which is insufficient. According to the claimant, for loss of earning during the period of treatment, the Tribunal assessed the monthly income of the claimant at Rs.12,000/- and awarded Rs.36,000/- only for three months, which requires enhancement for both monthly income and number of months, considering the claimant is the sole breadwinner of the family. On the other hand, the claimant was working as a Mason and was earning Rs.30,000/- per month. Therefore, the amount fixed for the monthly income by the Tribunal is too low. The Tribunal, without adequately considering the period of treatment, awarded Rs.5,000/- each towards “Pain and Suffering”, “Extra Nourishment” and “Transportation”. The amount of



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Rs.5,000/- awarded towards pain and suffering, is very low, and was not adequately compensated by the Tribunal. Furthermore, the learned counsel pointed out that the Medical Board suggested a 40% of disability for the injuries sustained by the claimant, whereas the Tribunal fixed only 35% disability. In any event, the compensation awarded is disproportionate to the injuries and extent of treatment taken by the claimant. Accordingly, the learned counsel for the appellant prayed for enhancement of compensation.

7. Learned counsel appearing for the respondent Corporation submitted that the compensation awarded by the Tribunal is fair and reasonable and therefore, it does not require any interference of this Court and he prayed for dismissal of the appeal.

8. Heard both sides and perused the materials available on record.

9. At the outset, it must be stated that the present appeal is preferred by the claimant. The respondent-transport Corporation has not filed any appeal as against the findings of the Tribunal fixing negligence on the driver of the bus and directing the respondent to pay compensation to

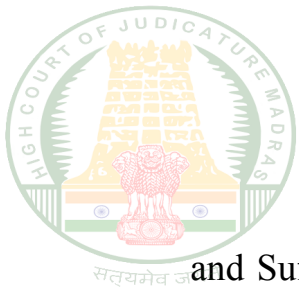


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the claimant. Therefore, the findings of the Tribunal to the effect that the driver of the bus had driven it in a rash and negligent manner are not disputed.

10. The accident occurred on 04.10.2018. It was stated that the claimant was a Mason and earning Rs.30,000/- per month. Admittedly, the claimant had not filed any proof of income to show that he was earning Rs.30,000/- per month. Therefore, it does not require any interference. However, considering the partial disability of the claimant, the Tribunal fixed the disability at 35%. This Court hereby takes the disability as 40%, as referred by the Medical Board. Considering the injuries sustained by the claimant, more particularly, brain injury, and also considering the accident took place in the year 2018, this Court fixes the compensation at the rate of Rs.7,000/- per percentage for 40% disability of the claimant, which amounts to Rs.2,80,000/- towards Permanent Disability.

11. Admittedly, the claimant was underwent treatment as an in-patient for 12 days. Considering the hospitalization and transport, the Tribunal awarded only a sum of Rs.5,000/- each towards the heads "Pain



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and Suffering”, “Extra Nourishment” and “Transportation”, which requires enhancement. Therefore, the same is hereby enhanced to Rs.10,000/- each, totaling Rs.30,000/-. In addition, this Court observed that no attendant charges were awarded by the Tribunal, hence, Rs.10,000/- is hereby awarded.

12. As far as the monthly income is concerned, taking into account of the injuries suffered by the claimant, and he finds it difficult to lead his life after the accident and considering the cost of living in the year 2018, this Court enhances the monthly income instead of Rs.12,000/- to Rs.16,000/- for a period of 4 months, which is amounts to Rs.64,000/- towards Loss of Earnings.

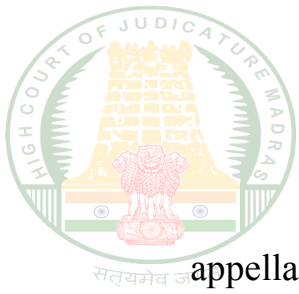
13. The other amount awarded as compensation is fair and reasonable and therefore, no interference is required.

14. In the light of the above, this Court modifies the compensation in the following manner:-



Sl. No	Description	Amount awarded by Tribunal	Awarded by this Court
1.	Permanent Disability	Rs.1,05,000/-	Rs.2,80,000/-
2.	Loss of Earnings	Rs.36,000/-	Rs.64,000/-
3.	Pain and Sufferings, Extra Nourishment and Medical Transportation	Rs.15,000/-	Rs.30,000/-
4.	Medical Expenses	Rs.2,26,000/-	Rs.2,26,000/-
5.	Attendant charges	-	Rs.10,000/-
	Total	Rs.3,82,000/-	Rs.6,10,000/-

15. In the result, this Civil Miscellaneous Appeal is allowed in part and the compensation awarded by the Tribunal at **Rs.3,82,000/-** is hereby enhanced to **Rs.6,10,000/-** together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit. The respondent Corporation is directed to deposit the entire award amount now determined by this Court along with interest, less the amount already deposited, if any, within a period of (8) eight weeks from the date of receipt of a copy of this Judgment, to the credit of M.C.O.P.No. 6711 of 2018 on the file of the Motor Accident Claims Tribunal, Chennai. On such deposit, the appellant/claimant is permitted to withdraw the award amount now determined by this Court, along with interest, less the amount, if any, already withdrawn, by making proper application before the Tribunal. The



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appellant/claimant is directed to pay the Court fee for the enhancement compensation amount, if required. The Tribunal below shall not disburse the amount till such time as proof of payment of Court Fee has been produced by the claimant. No costs.

18.06.2025

Speaking / Non Speaking order
Neutral Citation : Yes/No
Index : Yes/No

klr

To

- 1.The Motor Accident Claims Tribunal
(VI Small Causes Court), Chennai.
2. The Section Officer, VR Section,
High Court of Madras.



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T.V.THAMILSELVI,J.

klt

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