



C.M.A.No.1023 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 20.03.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.1023 of 2023

Shajahan

... Appellant

VS.

The Managing Director,
SETC Limited,
No.2, Thiruvalluvar House,
Pallavan Salai, Mount Road,
Chennai – 600 002

... Respondents

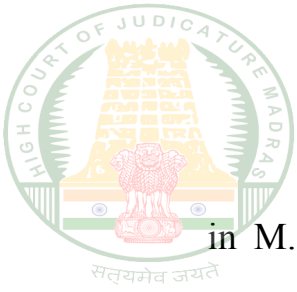
PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to allow the appeal and enhance the compensation in M.C.O.P.No.1514 of 2020, dated 19.12.2022 on the file of the Motor Accidents Claims Tribunal in the IV Court of Small Causes, Chennai.

For Appellant : Mr.R.Mohan Babu

For Respondent : Mr.S.S.Santhosa Kumar
Standing Counsel

J U D G M E N T

Not satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal in the IV Court of Small Causes, Chennai



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in M.C.O.P.No.1514 of 2020, dated 19.12.2022, the injured/claimant has come before this Court by way of this appeal.

2. According to the claimant, on 09.02.2020, he was travelling as a passenger in the State Transport Corporation bus bearing Registration No.TN-01-AN-3348 belonged to the Respondent-Corporation. The Driver of the bus had driven the vehicle in a rash and negligent manner and dashed against the tractor. Due to the accident, the claimant suffered fracture in right humerus bone. Hence, a claim petition was filed seeking compensation of Rs.16,00,000/-.

3. The Respondent-Corporation filed counter and contended that it was a case of hit and run and there was no negligence on the part of the driver of the bus and the entire negligence was on the part of the driver of the unknown tractor.

4. Before the Tribunal, the appellant/claimant was examined as PW.1 and one Dr.Saravanabhavanandham was examined as PW.2. On the side of the claimant, 12 documents were marked as Exs.P1 to P12. On behalf of the



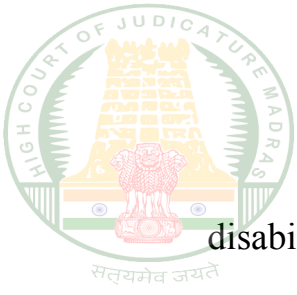
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Respondent-Corporation, Driver of MTC Bus was examined as RW.1 and no documents were marked on behalf of the respondent-corporation.

5. The Tribunal based on the evidence available on record, came to the conclusion that accident had occurred only due to the negligence on the part of the driver of the Respondent-Corporation and quantified the compensation payable to the claimant at Rs.1,26,500/-. Not satisfied with the quantum of compensation, the claimant has come before this Court.

6. The learned counsel appearing for the appellant/claimant would submit that due to the fracture of right humerus bone, the claimant suffered 30% disability and the Tribunal ignoring the evidence available on record, fixed the disability at 10% and awarded only Rs.50,000/- under the head disability and the same requires enhancement.

7. The learned counsel appearing for the Respondent/Corporation would submit that the claimant has not subjected himself for the examination of the Medical Board and therefore, taking into consideration the facts and circumstances of the case, the Tribunal was justified in fixing



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disability at 10% and awarding Rs.5,000/- per percentage of disability.

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8. It is seen from the records that the claimant has not appeared before the Medical Board for examination. The claim petition was filed in the year 2020, subsequent to the direction issued by the Division Bench of this Court in *The Branch Manager, TATA AIG General Insurance Company Limited Vs. Prabhu and another* reported in **2016 (1) TANMAC 609** regarding examination of the victim by the Medical Board. The claimant for the reason best known to him, failed to appear before the Medical Board. However, he examined one Doctor as PW.2 and marked disability certificate as Ex.P11 wherein the disability was mentioned as 30%. The Tribunal observed that PW.2 was not a Doctor, who treated the claimant and he was a stock witness used to issue disability certificates in many cases.

9. Taking into consideration the injury suffered by him and medical records filed by the claimant like Discharge Summary-Ex.P5 and Out-patient Treatment Records-Ex.P6, the Tribunal fixed disability at 10%. I do not think there is anything to interfere with the said finding.



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10. The accident in the present case occurred in the year 2020, therefore, the claimant is entitled to Rs.8,000/- per percentage of disability.

In that case, the claimant is entitled to Rs.80,000/- under the head disability instead of Rs.50,000/- awarded by the Tribunal. The amount awarded by the Tribunal under various other heads are reasonable and hence, the same are confirmed. In view of the discussions made earlier, the award passed by the Tribunal is modified as follows:-

Sl. No.	Description	Compensation awarded by the Tribunal	Compensation awarded by this Court	Remarks
1.	Disability	Rs.50,000/-	Rs.80,000/-	Enhanced
2.	Loss of Income	Rs.12,000/-	Rs.12,000/-	Confirmed
3.	Pain and Suffering	Rs.20,000/-	Rs.20,000/-	Confirmed
4.	Transportation Expenses	Rs.5,000/-	Rs.5,000/-	Confirmed
5.	Nutrition Expenses	Rs.10,000/-	Rs.10,000/-	Confirmed
6.	Damages to Clothes	Rs.2,000/-	Rs.2,000/-	Confirmed
7.	Attender Charges	Rs.7,500/-	Rs.7,500/-	Confirmed
8.	Loss of Amenities	Rs.20,000/-	Rs.20,000/-	Confirmed
	Total	Rs.1,26,500/-	Rs.1,56,500/-	Enhanced by Rs.30,000/-

11. In view of the discussions made earlier, the compensation awarded by the Tribunal is enhanced to Rs.1,56,500/- from Rs.1,26,500/-.



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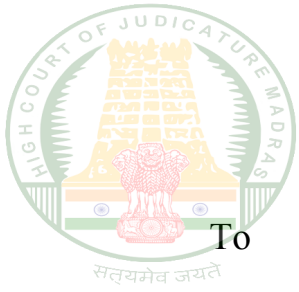
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The Respondent-Corporation is directed to deposit the enhanced award amount of Rs.1,56,500/- together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, after deducting the amount already deposited, if any, to the credit of M.C.O.P.No.1514 of 2020 on the file of the Motor Accident Claims Tribunal in the IV Court of Small Causes, Chennai, 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 award amount by making formal application before the Tribunal.

12. With the above directions, the Civil Miscellaneous Appeal is partly allowed. No costs.

20.03.2025

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



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To

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1.The Motor Accidents Claims Tribunal,
IV Court of Small Causes, Chennai.

2.The Managing Director,
SETC Limited,
No.2, Thiruvalluvar House,
Pallavan Salai, Mount Road,
Chennai – 600 002.

3.The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTHAR, J.

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