

C.M.A.No.2838 of 2021

M.DHANDAPANI, J.

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This matter is listed before this Court under the caption “for being mentioned” at the instance of the learned counsel for the appellant.

2. It is brought to the notice of this Court that though the year of MCOP was filed in the year 2017, however, due to the typographical error, it was typed as M.C.O.P.No.986 of 2016 instead of M.C.O.P.No.986 of 2017 in the prayer and first paragraph of the judgment dated 29.01.2025. Therefore, it is prayed that necessary modification be made in the prayer and first paragraph of the judgment dated 29.01.2025.

3. Registry is directed to carry out the aforesaid corrections and issue fresh order copy to the parties.

21.03.2025

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M.DHANDAPANI, J.

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C.M.A.No.2838 of 2021

21.03.2025



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

C.M.A.No.2838 of 2021

Velayudham

..Appellant

Vs.

1. The Managing Director,
Tamil Nadu State Transport Corporation Limited,
CBI Division,
Mettupalayam Road,
Coimbatore – 641 043.
2. Pattu Jebaraj
(Since R2 remained exparte before the Tribunal hence his presence
may be dispensed with)
3. The Divisional Manager,
ICICI Lombard General Insurance Company Limited,
142, ECR Main Road,
Kottupalayam,
Pondicherry – 8.

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 02.08.2019 in M.C.O.P.No.986 of 2016 on the file of Motor Accidents Claims Tribunal and Special Sub Court, Thiruvannamalai.

For Appellant : M/s.N.Lavanya for
M/s.M.Malar



For Respondents : Mr.M.Murali Vinodh for R1
M/s.R.Aiswarya for R3

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JUDGEMENT

Challenging the judgment and decree dated 02.08.2019 made in M.C.O.P.No.986 of 2016 on the file of the Motor Accidents Claims Tribunal and Special Sub Court, Thiruvannamalai, the claimant is before this Court.

2. Mr.M.Murali Vinodh, learned counsel takes notice on behalf of the 1st respondent and M/s.R.Aiswarya, learned counsel takes notice on behalf of the third respondent.

3. In view of the judgment being passed, notice to the second respondent is dispensed with.

4. It is the case of the appellant/claimant that, on 17.04.2016 at about 4.45 p.m, when the appellant was driving the Eicher Van bearing Regn.No.TN-22-CB-6226 belonging to the second respondent, at that time, a bus bearing Regn.No.TN-38-N-2084 belonging to the first respondent Corporation driven by its driver had driven the vehicle in a



rash and negligent manner and had hit the vehicle driven by the claimant, due to which the claimant sustained grievous injuries all over his body.

Thereby, the appellant filed a claim petition seeking compensation of Rs.20,00,000/-.

5. Before the tribunal, the claimant examined himself as P.W.1 and P.W.2 and marked exhibits P.1 to P.14 and on the side of respondents, they marked R.W.1 and R.W.2 were examined and Exhibits R1 and R2. After trial, the Tribunal, on appreciation of oral and documentary evidence had awarded a meagre compensation of Rs.4,05,723/-. Being not satisfied with the quantum of compensation awarded by the Tribunal, the appellant/claimant has come up with this appeal seeking enhancement of compensation.

6. Learned counsel appearing for the appellant / claimant submitted that admittedly, the above said accident occurred solely due to the rash and negligent driving of the driver of 1st respondent's Van, due to which, the appellant sustained grievous injuries all over his body. Admittedly, the accident is of the year 2016, the tribunal had taken only a sum of Rs.3,000/- per percentage instead of Rs.5,000/-, which is not

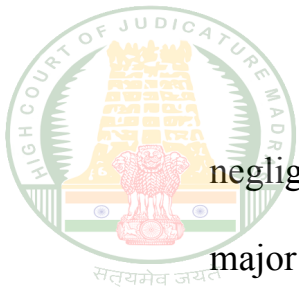


sustainable and the compensation awarded under the other heads are also on lower side and the same has to necessarily be enhanced. Accordingly, he prayed for appropriate orders.

7. Per contra, the respective learned counsel appearing for the first respondent / Transport Corporation and the third respondent / Insurer of the second respondent's Van submitted that, by considering all the relevant documents, the Tribunal has rightly awarded 50% of compensation to be payable by the first respondent and another 50% of compensation to be payable by the third respondent and ordered for pay and recovery in respect of the third respondent alone. Accordingly, he prayed for dismissal of the appeal.

8. Heard the learned counsel on either side and perused the materials available on record.

9. The factum and manner of the accident is not disputed by the parties and the claimant has not raised any issue on the aspect of



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negligence and therefore, this Court is not venturing into the same. The major grievances of the Appellant/claimant is with regard to the quantum of compensation awarded by the Tribunal. It is claimed by the appellant that though the accident is of the year 2016, however, the Tribunal had taken had erroneously taken a sum of Rs.3,000/- per percentage of disability. However, as per the existing law at the relevant point of time, the Tribunal ought to have fixed a sum of Rs.5,000/- per percentage of disability. Hence, this Court is inclined to fix a sum of Rs.5,000/- per percentage of disability. On a perusal of Ex.C.1, which is the disability certificate issued by the Medical Board, it reveals that the appellant suffered disability of 40%. Therefore, the amount under the head Disability stands enhanced to a sum of Rs.2,00,000/- ($40\% \times \text{Rs.5,000/-} = \text{Rs.2,00,000/-}$).

10. A sum of Rs.20,000/- has been granted under the head “extra nourishment” which is on the lower side and the same is enhanced to a sum of Rs.25,000/-. A sum of Rs.25,000/- has been granted under the head “loss of amenities” which is not sustainable. Hence, the same is rejected. Insofar as the compensation awarded under other heads are concerned, they are just and reasonable and the same does not require



any interference.

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11. In view of the above, the compensation awarded by the Tribunal is modified as under :-

Heads	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
Permanent disability	1,20,000/-	2,00,000/-
Pain and sufferings	50,000/-	50,000/-
Loss of amenities	25,000/-	-
Extra nourishment	20,000/-	20,000/-
Attender charges	20,000/-	20,000/-
Medical expenditure	1,31,723/-	1,31,723/-
Loss of income (4 months)	24,000/-	24,000/-
Trans	15,000/-	15,000/-
Total	4,05,723/-	4,60,723/-

12. Since there is a violation of policy conditions, the Tribunal has rightly ordered for pay and recovery in respect of third respondent, which does not require any interference and the same is confirmed.

13. Accordingly, the appeal is partly allowed and the impugned award of the Tribunal is modified enhancing the compensation amount



from Rs.4,05,723/- to **Rs.4,60,723/-**. The first and third respondents are directed to deposit 50% each, of the enhanced compensation amount to the credit of MCOP.No.986 of 2017 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the said amount directly to the bank account of the Appellant through RTGS within a period of two (2) weeks thereafter, upon production of proof with regard to payment of Court fee on the enhanced compensation by the appellant. There shall be no order as to costs in the present appeal.

29.01.2025

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Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes / No



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To

1. Motor Accidents Claims Tribunal and Special Sub Court,
Thiruvannamalai.
2. The Section Officer,
V.R. Section, High Court, Madras.



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