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CMA No. 2023 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-07-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 2023 of 2025

Eswaran

Appellant

Vs

The Managing Director,
Metropolitan Transport Corporation
Ltd., Pallavan House, Anna Salai,
Chennai - 600 002.

Respondent

PRAYER:- Civil Miscellaneous Appeal filed under Sec. 173 of Motor Vehicle Act, praying to set aside the judgment and decree dated 10.12.2021 and made in M.A.C.T.OP.No.7753 of 2016 (In the Court of the Principal Special Judge, Special Court under E.C.and NDPS Act, Chennai).

For Appellant: Mr.G.Dinesh

For Respondent: Mr.M. Murali Vinoth



JUDGMENT

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The appellant not being satisfied with the quantum of compensation awarded by the Tribunal in MACTOP No.7753 of 2016, dated 10.12.2021 has preferred this appeal seeking for enhancement of compensation.

2.The case of the appellant is that on 26.08.2015 at about 05.40 hours, when the petitioner was stepping into respondent bus bearing Regn. No. TN-01 N-4342 to go to Central from Beach Railway station bus stop, at that time, the respondent bus driver without noticing him stepping into the bus, he started the bus, due to which, he fell down and left backside tyre of the said bus ran over on his right leg. Due to which, the petitioner sustained grievous injuries, for which he underwent treatment in the hospital. Under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation of Rs.25,00,000/-.

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part



of the driver of the respondent transport corporation. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.1,26,000/-

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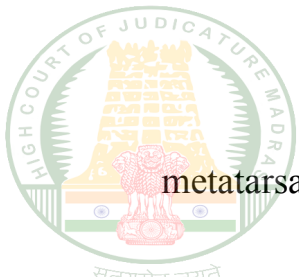
under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Permanent Disability	90,000
2.	Loss of earning	21,000
3.	Pain and suffering, extra nourishment and Transportation	15,000
4.	Medical expenses	----
	Total	1,26,000

4.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

5.The appellant not being satisfied with the quantum of compensation awarded by the Tribunal has filed the present appeal before this Court seeking for enhancement of compensation.

6. The learned counsel for appellant would submit that the petitioner sustained 30% of permanent disability of circumferential avulsion injury over the right leg, degloving injury involving right ankle, fracture of 2nd, 3rd and 4th



metatarsal bone as per Ex.P2, but the tribunal had fixed only a sum of Rs.3000/-

per percentage of disability without considering the nature of injury sustained

by him. Hence, he prayed to enhance the compensation.

7. The learned counsel for respondent transport corporation raised objections stating that he has not suffered with permanent disability as stated by the appellant and there is no contra material evidence produced challenging the disability certificate issued by the doctor. Hence, the tribunal has rightly awarded a sum of Rs.3000/- per percentage of disability for the injuries sustained by the petitioner, which needs no interference of this court.

8. Heard and considered rival submissions made by both learned counsel for appellant as well as respondent transport corporation and perused materials available on record.

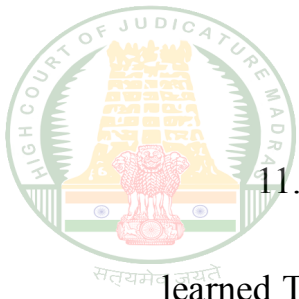
9. Considering both side submissions, the fact reveals that admittedly, as per Ex.P5 discharge summary, he had sustained injuries in the said accident including circumferential avulsion injury over the right leg, degloving injury involving right ankle, fracture of 2nd, 3rd and 4th metatarsal bone. Therefore, the medical board had assessed the disability at 30%, however the the sum awarded



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towards percentage of disability at Rs.3000/- is very meagre, which was fixed without considering the fact that the accident was happened in the year 2015 and he had sustained grievous injuries on account of accident. Therefore, on considering the nature of injury as well as cost of living at that time and also the fact that the accident was happened in the year 2015, this Court is inclined to enhance the sum awarded towards per percentage of disability from Rs.3,000/- to Rs.7,000/-.

10. Furthermore, on seeing the facts, he was a IV year B.E. Student and doing part time job in Computer centre during the time of accident, thereby he has earned a sum of Rs.8000/- per month. But, without considering the same, the tribunal has fixed a sum of Rs.7000/- per month towards notional monthly income. Therefore, considering the fact that the accident was happened in the year 2015 and he was a IV year B.E. Student and doing part time job in computer centre during that period and also considering the cost of living at that time, this Court is inclined to enhance the sum awarded towards notional monthly income from Rs.7000/- to Rs.15,000/-.



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11. On considering the nature of injuries as well as treatment period, the learned Tribunal fixed three months for loss of income, but the learned counsel for appellant argues that due to the injuries sustained, he was not able to move outside and nearly about four months, he was not able to attend his college. By relying the discharge summary, the learned counsel for respondent would submit that only 66 days, he is in hospital, but however on seeing the nature of injury as well as the treatment period, this Court is inclined to modify the period for loss of income as four months.

12. On further perusal of records, it reveals the fact that the appellant has pain and stiffness on the right leg and right ankle, movements restricted and ankle flexion 0 to 60% only and difficulty in walking, climbing steps and also difficult to sit cross leg. Considering that, this court is inclined to enhance the sum awarded for pain and sufferings from Rs.15,000/- to Rs.30,000/-. Furthermore, on seeing the records, it is seen that as he took treatment for the circumferential avulsion injury over the right leg, degloving injury involving right ankle, fracture of 2nd, 3rd and 4th metatarsal bone, so he was in need of more nourishment. Hence, this Court is inclined to award a sum towards extra



nourishment Rs.15,000/-. Considering the fact that during the treatment period,

the petitioner would be required an attender, but it was not considered by the

tribunal under the head of attender charges. Hence, this court is inclined to

award a sum of Rs.15,000/- towards attender charges. Considering the nature of

injury and other relevant factors, the compensation towards loss of amenities is

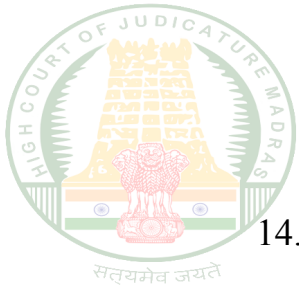
to be fixed, but there is no sum awarded by the tribunal under this head.

Therefore, this Court is inclined to award a sum towards loss of amenities at

Rs.10,000/-.

13.In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:

S.No	Compensation awarded under the head	Amount awarded by the tribunal (in Rs.)	Amount (in Rs.)	Amount confirmed or granted or enhanced
1.	Permanent Disability (30% x Rs.7000)	90,000	2,10,000	enhanced
2.	Loss of earnings (Rs.15,000/- x 4)	21,000	60,000	enhanced
3.	Pain and sufferings	15,000	30,000	enhanced
4.	Extra Nourishment	nil	15,000	awarded
5.	Attender charges	nil	15,000	awarded
6.	Loss of amenities	nil	10,000	awarded
	Total	1,26,000	3,40,000	enhanced

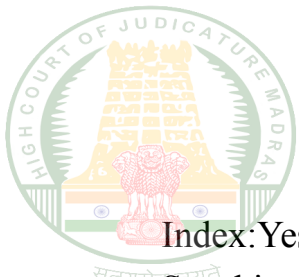


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14. The compensation awarded by the tribunal at Rs.1,26,000/- is enhanced to Rs.3,40,000/-. The respondent transport corporation is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of eight weeks from the date of receipt of copy of this judgment. On such deposit, the appellant is permitted to withdraw the enhanced award amount now determined by this court along with interest and costs, less the amount if any, already withdrawn. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

15. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

30-07-2025



Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. Motor Accident Claims Tribunal, Principal Special Judge, Special Court under E.C. & NDPS Act, Chennai.

2. Section Officer, VR Section, Madras High Court.



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T.V.THAMILSELVI J.

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