



C.M.A.No.1880 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 06.02.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.1880 of 2022

Karthikeyan

... Appellant

VS.

1.K.S.Sureshkumar

2.M/s New India Assurance Company Ltd

1st Floor

Nalumakkal Building

Chandappura

Eriyad Road

Kodungallur

Kerala-680 664

3.Managing Director

State Express Transport Corporation, No-2

Pallavan Salai

Chennai-2

... Respondents

(The claim against this respondent dismissed by the Tribunal. Hence, notice may be dispensed with)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Order and Decretal order in M.C.O.P.No.700 of 2017, dated 22.09.2021, on the file of Motor Accident Claims Tribunal/Chief Judicial Magistrate, Perambalur.



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For Appellant : Ms.K.Priyavarshini
for M/s.S.Kamadevan

For R3 : Mr.S.S.Santhosakumar
Standing Counsel (TNSTC)

For R2 : No Appearance

For R1 : Exparte vide in JR (AS)
Order dated 26.10.2022

J U D G M E N T

Aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal/Chief Judicial Magistrate, Perambalur, the claimant has come before this Court.

2. It is not in dispute that appellant/claimant suffered injury in a road accident on 04.06.2017 involving the bus belonging to the 1st respondent and insured with the 2nd respondent. The learned counsel appearing for the appellant advanced arguments only on the question of quantum of compensation.



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3. Before the Tribunal, the claimant/appellant was examined as PW.1

and the Manager of the petitioner was examined as PW.2. The Driver of the 3rd respondent's bus was examined as RW.1.

4. The Tribunal fixed negligence on the part of the driver of the 1st respondent's bus and held being an insurer, the 2nd respondent is jointly and severally liable. The respondents 1 and 2 have not filed any appeal. Though the 2nd respondent is served and his name appeared in the cause-list, there is no representation for the 2nd respondent. The 1st respondent was set *exparte* before the Tribunal and hence, notice to the 1st respondent is dispensed with. The 3rd respondent is only a formal party and he is also served and represented by counsel.

5. Based on the evidence available on record, the Tribunal awarded a sum of Rs.2,17,750/- in favour of the claimant. Not satisfied with the quantum of compensation awarded by the Tribunal, the claimant has come by way of this appeal.



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6. The learned counsel appearing for the appellant would submit that the certificate issued by employer of the appellant/claimant-Ex.P13 and P14 would indicate that the petitioner had not attended the duty from 15.07.2017 to 31.03.2018 and therefore, effectively the petitioner was prevented from attending the duty for nearly 8 months. However, the Tribunal granted loss of income only for period of four months and hence, the amount under the said head requires enhancement. The learned counsel further submitted that amount of Rs.5,000/- fixed per percentage of the disability is very much on the lower side having regard to the date of accident, which had taken place in the year 2017.

7. The Manager of the Company in which the claimant is employed was examined as PW.2 by the claimant. He talks about the absence of claimant from duty. The claimant also produced Ex.P13 and P14-Certificates issued by the employer. A perusal of the same would suggest that the petitioner did not attend duty till 31.03.2018. The accident had taken place on 04.06.2017. Therefore, it is clear that the petitioner was disabled from attending the duty for nearly 10 months. Ex.P14-Certificate issued by employer would indicate that the petitioner joined the duty only



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on 02.04.2018, after accident on 04.06.2017. Therefore, the petitioner is entitled to loss of income for 10 months. However, the Tribunal granted loss of income only for four months. As per Salary Slip issued by the employer to the claimant marked as Ex.P7, the salary of the claimant was mentioned as Rs.19,126/-. Ex.P14, would indicate that petitioner was sanctioned paid leave for 45 days. Therefore, this Court is inclined to grant loss of income for 8 months only. The petitioner is entitled to Rs.1,53,008/- under the head of loss of income during treatment period (Rs.19,126 x 8).

8. The Tribunal granted only Rs.5,000/- for 1% of the disability, the accident had taken place on 04.06.2017. Following decision of a Division Bench of this Court in ***Future General India Insurance Company Limited vs. Manivannan and others*** (C.M.A.No.3334 of 2021, dated 15.06.2022), the claimant is entitled to Rs.7,000/- per percentage of the disability having regard to the date of accident. Therefore, the claimant is entitled to Rs.98,000/- under the head disability (Rs.7,000/- x 14).

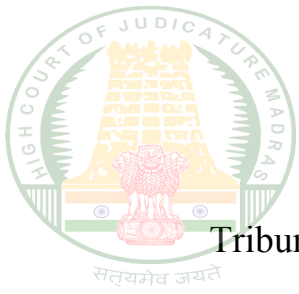
9. The amount awarded by the Tribunal under various other heads appear to be normal and therefore, the same requires no interfere.



Accordingly, the award passed by the Tribunal is modified as follows:-

Sl. No.	Description	Compensation awarded by the Tribunal	Compensation awarded by this Court
1.	For partial permanent disability	Rs.70,000/-	Rs.98,000/-
2.	For Transport to Hospital	Rs.12,500/-	Rs.12,500/-
3.	Medical Bills	Rs.2,739/-	Rs.2,739/-
4.	For Extra Nourishment	Rs.10,000/-	Rs.10,000/-
5.	Attender's charge	Rs.5,000/-	Rs.5,000/-
6.	For Pain and Sufferings, mental agony	Rs.30,000/-	Rs.30,000/-
7.	Loss of amenities	Rs.10,000/-	Rs.10,000/-
8.	Loss of Income	Rs.76,504/-	Rs.1,53,008/-
9.	Damage to cloth	Rs.1,000/-	Rs.1,000/-
Total		Rs.2,17,743/- (Rounded off Rs.2,17,750/-)	Rs.3,22,247/-

10. In view of the discussion made earlier, the compensation awarded by the Tribunal is enhanced to Rs.3,22,247/- instead of Rs.2,17,750/-. The 2nd respondent/Insurance Company is directed to deposit the enhanced award amount of Rs.3,22,247/- 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.700 of 2017 on the file of the Motor Accident Claims



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Tribunal/Chief Judicial Magistrate, Perambalur, within a period of four weeks from the date of receipt of copy of this judgment. On such deposit, the appellant/claimant is entitled to withdraw the award amount now enhanced by this Court by making formal application.

11. With the above direction, the Civil Miscellaneous Appeal is partly allowed. No costs.

06.02.2025

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

To

1.The Motor Accident Claims Tribunal/Chief Judicial Magistrate,
Perambalur.

2.M/s New India Assurance Company Ltd
1st Floor, Nalumakkal Building, Chandappura
Eriyad Road, Kodungallur, Kerala-680 664.

3.Managing Director
State Express Transport Corporation, No-2
Pallavan Salai, Chennai-2.

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



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S.SOUNTHAR, J.

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