



CMA.No.2777 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2025

CORAM:

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

CMA.No.2777 of 2021

N.Vijayakumar

...Appellant

Vs.

Tamil Nadu State Transport Corporation Ltd.,
Rep. by its Managing Director,
Railway Station New Road,
Kumbakonam Town.

...Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, as against the award dated 03.12.2019 made in MACTOP.No.96 of 2017 on the file of the Motor Accidents Claims Tribunal (Sub Court) at Nagapattinam.

For Appellant : M/s.G.Lavanya
for Mr.T.Saikrishnan

For Respondent : Mr.M.Murali Vinodh



CMA.No.2777 of 2021

WEB COPY

JUDGEMENT

Challenging the judgment and decree dated 03.12.2019 made in MACTOP.No.96 of 2017 on the file of the Motor Accidents Claims Tribunal, (Sub Court) at Nagapattinam, the claimant is before this Court.

2. It is the case of the appellant/claimant that, on 28.11.2016 at about 08.45 am., when he travelling as a passenger in the respondent transport corporation bus bearing Regn.No.TN-68-N-0540 as the driver of the said bus drove the same in a rash and negligent manner and drove the same over a round shaped Palm tree which was lying on the left side of the road, the bus got flipped over, due to which the appellant sustained grievous injuries and got admitted in the hospital. Thereby, the appellant filed a claim petition seeking compensation of Rs.4,00,000/-. Before the tribunal, the claimant examined himself as P.W.1 and marked exhibits P.1 to P.8 and on the side of respondent no documents were marked and no witness was examined. After trial, the Tribunal, on appreciation of oral and documentary evidence, though came to a conclusion that the accident had taken place due to the rash and negligent



CMA.No.2777 of 2021

driving on the part of the driver of the respondent transport corporation, however, awarded a meagre compensation of Rs.70,000/-. Aggrieved by the same, the appellant has come up with the present appeal, seeking enhancement of compensation.

3. Learned counsel appearing for the appellant submitted that, the above said accident occurred solely due to the rash and negligent driving on the part of the driver of the respondent corporation bus, due to which, the appellant sustained multiple fracture injuries all over his body and the medical board also assessed the disability suffered by the appellant at 10% and accident is of the year 2016, however, the tribunal had taken only a sum of Rs.3,000/- per percentage of disability and awarded a meagre compensation under the head Disability and the compensation awarded under other heads are also on lower side and the same has to necessarily be enhanced.

4. Per contra, the learned counsel appearing on behalf of the respondent transport corporation submitted that, by considering all the relevant



CMA.No.2777 of 2021

documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, he prayed for dismissal of the appeal.

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

6. The factum and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The major grievance 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 only a sum of Rs.3,000/- per percentage of disability. In this regard, this Court perused the disability certificate issued by the Medical Board, which was marked as Ex.P.8 and the same reveals that the appellant suffered permanent disability of 10%. Though the tribunal had rightly adopted the percentage method by holding that the injuries sustained by the appellant are not functional in nature, as the same would not hamper his day to day activities, however, by erroneously adopting



CMA.No.2777 of 2021

WEB COPY

a sum of Rs.3,000/- per percentage of disability, the tribunal awarded only a sum of Rs.30,000/- and, as per the existing law at the relevant point of time, the Tribunal ought to have fixed a sum of Rs.6,000/- per percentage of disability. Hence, the amount under the head Disability stands enhanced to a sum of Rs.60,000 /- ($10\% \times \text{Rs.6,000/-} = \text{Rs.60,000/-}$).

7. Insofar as the compensation awarded under other heads are concerned, the tribunal had awarded a sum of Rs.5,000/-, Rs.10,000/-, Rs.15,000/- and Rs.5,000/- under the heads Transportation expenses, Extra nourishment, Pain and sufferings and Attender charges respectively, which are on the lower side and thereby, this Court is inclined to enhance the same to Rs.10,000/-, Rs.20,000/-, Rs.40,000/- and Rs.10,000/- respectively.

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



CMA.No.2777 of 2021

WEB COPY

Heads	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
Disability	30,000/-	60,000/-
Pain and sufferings	15,000/-	40,000/-
Transportation Expenses	5,000/-	10,000/-
Extra nourishment	10,000/-	20,000/-
Attender charges	5,000/-	10,000/-
Medical expenses	5,000/-	5,000/-
Total	70,000/-	1,45,000/-

9. Accordingly, the appeal is allowed in part and the impugned award of the Tribunal is modified by enhancing the compensation amount from **Rs.70,000/- to Rs.1,45,000/-**. The respondent / Transport corporation is directed to deposit the said amount to the credit of MACTOP.No.96 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



CMA.No.2777 of 2021

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. It is underscored that the appellant is not entitled to any interest for the default period, if any. No Costs.

29.01.2025

skt

Index : Yes / No
Speaking Order : Yes / No
Neutral Citation Case : Yes / No

To

The Motor Accidents Claims Tribunal
(Sub Court),
Nagapattinam.



WEB COPY



CMA.No.2777 of 2021

M.DHANDAPANI, J.

skt

CMA.No.2777 of 2021

29.01.2025