



WEB COPY



CMA.Nos.2003 of 2024 and 774 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA.Nos.2003 of 2024 and 774 of 2025
and CMP.No.6215 of 2025

CMA.No.2003 of 2024:

Sakthivel

... Appellant

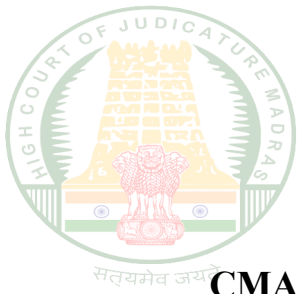
Vs.

The Managing Director,
TNSTC Kumbakonam Limited,
Region at Pudukottai,
Pudukottai District.

... Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the order and decree dated 06.06.2024 made in MCOP.No.3689 of 2022, on the file of the Motor Accident Claims Tribunal, Special Subordinate Court – I, Small Causes Court, Chennai.

For Appellant :Mr.R.Mohan Babu
For Respondent :Mr.C.Gauthamraj



CMA.Nos.2003 of 2024 and 774 of 2025

CMA.No.774 of 2025:

WEB COPY

The Managing Director,
TNSTC Kumbakonam Limited,
Region at Pudukottai,
Pudukottai District.

... Appellant

Vs.

Sakthivel

... Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the order and decree dated 06.06.2024 made in MCOP.No.3689 of 2022, on the file of the Motor Accident Claims Tribunal, Special Subordinate Court – I, Small Causes Court, Chennai.

For Appellant : Mr.C.Gauthamraj

For Respondents :Mr.R.Mohan Babu

COMMON JUDGMENT

For the sake of convenience, the parties are referred as per their rank in the claim petition.

2. These two appeals are filed challenging the award passed by the Motor Accident Claims Tribunal in MCOP.NO.3689 of 2022.



CMA.Nos.2003 of 2024 and 774 of 2025

3. CMA.No.774 of 2025 has been filed by the Transport

Corporation.

4. CMA.No.2003 of 2024 has been filed by the claimant

seeking enhancement of compensation.

5. It was the case of the claimant that the accident had occurred on 01.06.2022 when he was travelling as a passenger in a bus belonged to the respondent Corporation from Krumbur to Chennai. When the bus came near Rakammal Koil Arch, the driver of the bus had driven the bus in a rash and negligent manner and suddenly applied the brake. The claimant fell down from the front staircase of the bus and sustained grievous injuries all over the body. Hence, the claim petition was filed seeking compensation of Rs.16,00,000/-.

6. The respondent filed counter denying negligence on the part of the driver of the bus and it was the case of the respondent that the accident had occurred only due to the negligence on the part of the claimant as he was standing in front of the staircase of the bus. Therefore, the respondents prayed for dismissal of the claim petition.



WEB COPY

7. Before the Tribunal, the injured claimant was examined as PW.1 and twenty documents were marked on the side of the claimant as Exs.P1 to P20. On behalf of the respondent Corporation, conductor of the bus was examined as RW.1. The disability certificate issued by the Medical Board was marked as Ex.C1 and no documents were marked on behalf of the respondent.

8. The Tribunal based on the evidence available on record came to the conclusion that the accident had occurred only due to the rash and negligence driving of the driver of the respondent Corporation. The amount payable to the claimant was quantified at Rs.9,01,000/-.

9. Not satisfied with the quantum of compensation, the claimant has filed CMA.No.2003 of 2024. Aggrieved by the finding of the Tribunal fixing negligence on the part of the driver of the respondent Corporation, the respondent has filed an appeal in CMA.No.774 of 2025.



CMA.Nos.2003 of 2024 and 774 of 2025

10. The learned counsel appearing for the respondent

Corporation would submit that in order to prove that the claimant was negligent by standing in front of staircase of the bus, the conductor of the respondent bus was examined and the Tribunal overlooked his evidence and erroneously fixed negligence on the part of the driver of the respondent bus. The learned counsel further submitted that the amount awarded by the Tribunal under the head disability is on higher side and the same requires interference.

11. The learned counsel appearing for the claimant would submit that based on the evidence of PW.1, the Tribunal rightly fixed negligence on the part of the driver of the respondent corporation and the same requires no interference by this Court. He further submits that the Tribunal committed an error in fixing a sum of Rs.5,000/- per percentage of disability for the accident that had occurred in the year 2022. He also submitted that the amount awarded by the Tribunal under the head loss of income is very much on lower side.



WEB COPY

12. In order to prove the negligence, the claimant examined himself as PW.1. He deposed that the driver of the respondent corporation suddenly applied the brake. The evidence of PW.1 is very well corroborated by the contents of FIR marked as Ex.P1. On the side of the respondent nothing is elucidated in the cross examination of PW.1. Further the respondent has not examined the driver of the bus to rebut the evidence of PW.1. The Conductor of the bus was examined as RW.1 by the Respondent Corporation, though he in his proof affidavit stated that the accident had occurred only due to the negligence on the part of the claimant, in his cross examination he admitted that no documents had been produced to suggest that he acted as conductor in the bus involved in the accident on that day. He has not given any police complaint against the claimant regarding the accident. If the accident had occurred due to the negligence on the part of the claimant, in his capacity as conductor of the bus he should have given police complaint. However, the FIR has been admittedly registered against the driver of the bus. The contents of the FIR and the evidence of PW.1 are complementary to each other and hence the Tribunal was justified in fixing negligence on the part of the driver of the first



respondent bus. The said finding of the Tribunal is based on proper appreciation of the evidence and hence the same is confirmed.

13. It is seen from EX.C1-disability certificate that medical board of Rajiv Gandhi Government Hospital examined the claimant and issued the disability certificate fixing disability at 53%. He suffered fracture in his left leg and right foot. Though it was stated by the claimant that he suffered functional disability, he has not established the same by leading any oral or documentary evidence in the claim petition. It was stated that he was employed in Myung Sung India Precision Private Limited as CNC Programmer. Therefore, injury suffered by him in his left leg and right foot will not cause any interference with his avocation. Therefore, the Tribunal was justified in quantifying compensation on percentage method. On the other hand, the Tribunal only fixed Rs.5,000/- per percentage of disability. In the case on hand, the accident had occurred in the year 2022. Having regard to the date of accident and the prevailing cost of living, this Court is inclined to fix Rs.9,000/- as compensation per percentage of disability. Therefore, the claimant is entitled to Rs.4,77,000/- under the head disability.



14. Taking into consideration the nature of injury and the date

of accident, the amount awarded under the head transport charges and attender charges are increased to Rs.10,000/- (each). Likewise, the amount awarded under the head loss of amenities is increased to Rs.20,000/-.

15. The learned counsel for the claimant by relying on Ex.P16-leave certificate issued by employer submitted that the claimant is entitled to loss of income for atleast six months. A perusal of Ex.P15-salary slip would indicate that the claimant was not paid any salary for the period from 15.06.2022 to 08.01.2023. However, a perusal of Bank statement marked as Ex.P14 would indicate that the claimant was paid salary of Rs.33,784/- on 06.06.2022 which represents May 2022 salary. He was paid Rs.16,424/- on 06.07.2022 which represents his salary for June 2022.

16. It is also seen that on 20.10.2022, the claimant was paid a sum of Rs.32,651/- which should be for the month of September 2022. Therefore, it is clear, he was not paid any amount for July and August. However for the month of June, he was paid only for 15 days. In these circumstances, the claimant is entitled to loss of income for 2 ½ months. It



CMA.Nos.2003 of 2024 and 774 of 2025

is seen from Ex.P14-monthly salary of the claimant was Rs.33,784/-.

Therefore, the amount awarded under the head loss of income is increased to Rs.85,000/-. Therefore, the amount awarded by the Tribunal is enhanced to Rs.11,34,865/-.

17. In view of the discussions made earlier, the award passed by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)
1.	Disability	Rs.2,65,000/-	Rs.4,77,000/-
2.	Pain and sufferings	Rs.35,000/-	Rs.35,000/-
3.	Transportation	Rs.4,000/-	Rs.10,000/-
4.	Medical expenses	Rs.4,87,865/-	Rs.4,87,865/-
5.	Extra Nourishment	Rs.10,000/-	Rs.10,000/-
6.	Attender charges	Rs.6,000/-	Rs.10,000/-
7.	Loss of income	Rs.78,000/-	Rs.85,000/-
8.	Loss of amenities	Rs.15,000/-	Rs.20,000/-
	Total	Rs.9,00,865/- rounded off to Rs.9,01,000/-	Rs.11,34,865/-



CMA.Nos.2003 of 2024 and 774 of 2025

WEB COPY

18. In view of the above discussion, the CMA.No.774 of 2025 filed by the Transport Corporation is dismissed.

19. The CMA.No.2003 of 2024 filed by the claimant is partly allowed. The respondent corporation is directed to deposit enhanced amount of Rs.11,34,865/- with interest at the rate of 7.5% per annum to the credit of MCOP.No.3689 of 2022, on the file of Special Subordinate Court – I, Small Causes Court, Chennai, within a period of six weeks from the date of receipt of copy of this order. The claimant is permitted to withdraw the amount by making a formal application before the Tribunal. Consequently, connected miscellaneous petition is closed. No costs.

24.03.2025

Index : Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

ub



CMA.Nos.2003 of 2024 and 774 of 2025

WEB COPY

To

1. The Motor Accident Claims Tribunal,
Special Subordinate Court – I,
Small Causes Court, Chennai.

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



WEB COPY



CMA.Nos.2003 of 2024 and 774 of 2025

S.SOUNTHAR, J.

ub

CMA.Nos.2003 of 2024 and 774 of 2025