



C.M.A.No.836 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 08.04.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.836 of 2025

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... Appellant

VS.

1.The Managing Director,
Karnataka State Road Transport Corporation,
Karnataka Transport House Central Office,
K H Road, Shanthi Nagar Bangalore,
Karnataka 560 027

2.Sundar

3.The Manager,
The New Indian Assurance Company Ltd.
KH Road, Shanthi Nagar, Bangalore,
Karnataka 560 027

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the Decree and Judgment dated 17.12.2021 made in MCOP No.2117 of 2018 on the file of the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai and to enhance the award as claimed by the appellant in the MCOP Petition.

For Appellant : Mr.R.P.Vijaya Krishnan

For R1 : Mr.T.Thiyagarajan

For R3 : Mr.J.Chandran

For R2 : Notice Dispensed With



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Not satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai in M.C.O.P.No.2117 of 2018, dated 17.12.2021, the injured/claimant has come before this Court.

2. Mr.J.Chandran, learned counsel takes notice for the 3rd respondent.

3. It is the case of the appellant/claimant that she suffered grievous injuries in a road accident that had occurred on 11.05.2013. According to her, she was travelling in a bus bearing Registration No.KA-01-F-9082 owned by the 1st respondent from Bangalore to Chennai. Due to the rash and negligent driving of the bus by its driver, it was toppled and the claimant suffered grievous injuries on her scalp, frontal region and right cheek etc. Therefore, a claim petition was filed seeking compensation of Rs.50,00,000/-.

4. The respondents 2 and 3 remained *exparte* before the Tribunal and the claim was resisted only by the 1st respondent by filing counter. It was the



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case of the 1st respondent that the driver of the bus had driven the vehicle slowly and steadily and the accident had occurred only due to the rash and negligent driving of the vehicles which were proceeding ahead of corporation-bus. Therefore, the 1st respondent sought for dismissal of the claim petition.

5. Before the Tribunal, the appellant/claimant was examined as PW.1 and 11 documents were marked as Exs.P1 to P11 on behalf of the claimant. The Driver of the 1st respondent's bus was examined as RW.1 and on behalf of the 1st respondent, 3 documents were marked as Exs.R1 to R3. The Disability Certificate issued to the claimant by the Medical Board was marked as Ex.C1.

6. The Tribunal based on the evidence available on record, came to the conclusion that accident had occurred only due to the rash and negligent driving of the bus by 1st respondent's driver. The compensation payable to the claimant was quantified at Rs.4,83,000/-. Not satisfied with the quantum of compensation, the claimant has come before this Court.



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7. The learned counsel appearing for the appellant as well as learned counsel appearing for the respondents 1 and 3 respectively have not advanced any arguments on the questions of negligence and liability. Hence, facts necessary to decide those questions are not discussed in this judgment.

8. The learned counsel appearing for the appellant would submit that the notional income of Rs.9,000/- fixed by the Tribunal is a meagre one and considering the qualification of the claimant, the same requires enhancement.

9. The learned counsel appearing for the 1st respondent and the learned counsel appearing for the 3rd respondent would submit that claimant has not produced any documentary evidence to prove her income and therefore, the notional income fixed by the Tribunal was reasonable in the facts and circumstances of the case.

10. In the claim petition it was stated by the claimant that she was expecting the post of editing at Oxford University Press, London but due to the accident she could not join the same. It was also stated that she was earning Rs.40,000/- per month as a teacher in a school.



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11. Though it was claimed in the claim petition that the claimant was earning Rs.40,000/- per month, no documents have been produced to substantiate the same. In the absence of any concrete evidence to prove the income of the injured, this Court is inclined to follow the guidelines issued by the Division Bench of this Court in *Andal and others vs. Avinav Kannan and others* reported in *MANU/TN/6368/2018*. If the guidelines issued by the Division Bench is followed, the notional income of the injured/claimant could be fixed at Rs.10,000/-. The Tribunal fixed the age of the injured at 32 years. Therefore, the claimant is entitled to 40% enhancement towards future prospects. The applicable multiplier is 16. The Medical Board issued Disability Certificate-Ex.C1 fixing the disability at 13%. Therefore, the claimant is entitled to Rs.3,49,440/- under the head disability (Rs.10,000 x 1.4 x 12 x 16 x 13/100).

12. The amount of Rs.83,138/- fixed by the Tribunal under the head medical expenses is based on evidence and the same is confirmed. The amount awarded by the Tribunal under the head pain and suffering and loss of amenities are increased to Rs.20,000/- each by taking into consideration the date of accident. The amount awarded by the Tribunal under the head



mental agony is set aside as already amount is awarded under the head pain and suffering. The Tribunal granted loss of income for one month at Rs.9,000/- and the same is enhanced to Rs.10,000/- as per the notional income fixed earlier. The amount awarded by the Tribunal under various other heads are confirmed. Therefore, the total amount payable to the claimant is fixed at Rs.5,18,578/-. Accordingly, the award passed by the Tribunal is modified as follows:-

Sl. No.	Description	Compensation awarded by the Tribunal	Compensation awarded by this Court	Remarks
1.	Disability	Rs.3,14,496/-	Rs.3,49,440/-	Enhanced
2.	Medical Expenses	Rs.83,138/-	Rs.83,138/-	Confirmed
3.	Loss of Income	Rs.9,000/-	Rs.10,000/-	Enhanced
4.	Pain and Suffering	Rs.15,000/-	Rs.20,000/-	Enhanced
5.	Transportation Expenses	Rs.5,000/-	Rs.5,000/-	Confirmed
6.	Nutrition Expenses	Rs.15,000/-	Rs.15,000/-	Confirmed
7.	Damages to Clothes	Rs.1,000/-	Rs.1,000/-	Confirmed
8.	Attender Charges	Rs.15,000/-	Rs.15,000/-	Confirmed
9.	Loss of Amenities	Rs.15,000/-	Rs.20,000/-	Confirmed
10.	Mental Agony	Rs.10,000/-	-	Set Aside
Total		Rs.4,82,634/- rounded off to Rs.4,83,000/-	Rs.5,18,578/-	Enhanced by Rs.35,578/-



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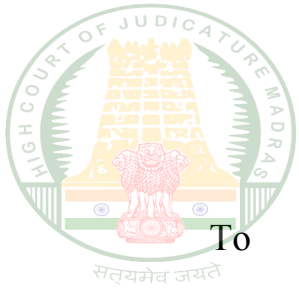
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13. In view of the discussions made earlier, the compensation awarded by the Tribunal is enhanced to Rs.5,18,578/-. As the insurer of the 1st respondent's bus, the 3rd respondent/Insurance Company is directed to deposit the enhanced award amount of Rs.5,18,578/- together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, to the credit of M.C.O.P.No.2117 of 2018 on the file of the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai, within a period of six weeks from the date of receipt of copy of this judgment. On such deposit, the appellant/claimant is permitted to withdraw the award amount by making formal application before the Tribunal.

14. With the above direction, the Civil Miscellaneous Appeal is partly allowed. It is made clear that the claimant is not entitled to claim interest for the delay period of 531 days as per the order passed by this Court in C.M.P.No.14187 of 2024, dated 10.03.2025. No costs.

08.04.2025

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

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1.The Motor Accident Claims Tribunal,
IV Small Causes Court, Chennai.

2.The Managing Director,
Karnataka State Road Transport Corporation,
Karnataka Transport House Central Office,
K H Road, Shanthi Nagar Bangalore,
Karnataka 560 027

3.The Manager,
The New Indian Assurance Company Ltd.
KH Road, Shanthi Nagar, Bangalore,
Karnataka 560 027

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



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S.SOUNTHAR, J.

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