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C.M.A.No.3513 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2025

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

C.M.A. No. 3513 of 2024

Madhavan

... Appellant

Vs.

The Managing Director,
Metropolitan Transport Corporation Limited,
Pallavan House, Anna Salai,
Chennai – 600 002.

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 25.06.2024 made in M.C.O.P.No.694 of 2017 on the file of the Motor Accident Claims Tribunal, V Small Causes Court, Chennai.

For Appellant : Mr. R. Dinesh Kumar.

For Respondent : Mr. Anton Dhanasekaran.



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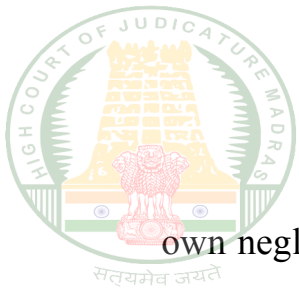
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J U D G M E N T
(Delivered by Dr. A.D. Maria Clete, J)

The Civil Miscellaneous Appeal has been filed by the appellant, challenging the award dated 25.06.2024 made in M.C.O.P.No.694 of 2017 on the file of the Motor Accident Claims Tribunal, V Small Causes Court, Chennai.

2. **Brief Facts:** On 31.03.2016, when the appellant was riding the motorcycle bearing Reg. No.TN 02 BD 5658 from West to East in front of Door No.103-D, Housing Board, Gandhi Nagar, New Avadi Road, Chennai – 600 101, a MTC bus bearing Reg. No.TN 01 N 5397, insured with the respondent proceeded from the same direction on the left side of the Motor cycle in a rash and negligent manner, hit behind the appellant, as a result of which the appellant sustained grievous injuries. Hence, the appellant filed a claim petition claiming a total compensation of Rs.10,00,000/-.

3. The respondent, Metropolitan Transport Corporation (Chennai Division-1) Ltd., contested the claim, alleging that the accident occurred due to the appellant's



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own negligence. They argued that the appellant attempted to overtake the bus and lost control, leading to the collision. They also contended that the compensation claimed was excessive and should be reduced.

4. In support of the claim, the appellant examined four witnesses viz., PW1 to PW4 and marked Ex.P.1 to Ex.P.12 as documentary evidence. On the respondent's side, RW1 has been examined and Ex.R.1 has been marked. The disability certificate issued by the Medical Board has been marked as Ex.C.1.

5. After thoroughly considering the pleadings, oral evidence, and documentary records, the Tribunal awarded a sum of Rs.23,08,800/- as compensation to the appellant, payable by the respondent. Aggrieved by the said order, the appellant has preferred the present appeal.

6. The learned counsel for the appellant submitted that the Tribunal erred in fixing the functional disability at 60%, though the appellant has sustained 100% loss of functional disability. Further, it is contended that the appellant was aged 27 years and was working as a Driver and hence, Rs.17,000/- has to be fixed as



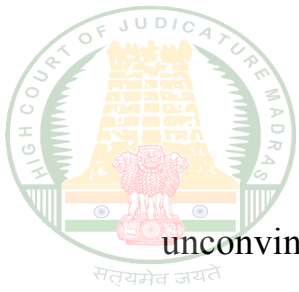
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notional income. Further, it is contended that the compensation awarded under the other heads are on the lower side and sought for enhancement of the compensation.

7. On the other hand, the learned counsel for the respondent submitted that the accident has occurred solely due to the negligence of the appellant who has attempted to overtake the ongoing bus and hence, the appellant is solely responsible for the accident and he is not entitled for any compensation. Further, it is submitted that the compensation awarded under all the heads are excessive and hence, sought to set aside the award passed by the Tribunal.

8. Heard the parties and perused the materials available on record.

9. The Tribunal, after meticulously examining the evidence, concluded that the accident occurred solely due to the rash and negligent driving of the bus driver. The Tribunal relied on the testimonies of independent eyewitnesses (PW3 and PW4), who clearly stated that the bus hit the motorcycle from behind. The bus driver's version, suggesting that the appellant was at fault, was found



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unconvincing and unsupported by credible evidence. Furthermore, the testimony

of PW2, a police officer, confirmed that the initial FIR was registered against an unknown motorcycle, but the evidence on record did not support the claim of contributory negligence by the appellant. Consequently, the Tribunal rightly held that the accident was solely caused by the bus driver's negligence, and there is no reason to interfere with this finding.

10. However, the Tribunal erred in assessing the disability at 60%, despite the Medical Board having certified the disability at 85%. The Medical Board's assessment was based on a thorough evaluation of the claimant's condition, and the Tribunal should have given due weight to the medical evidence, especially considering the severity and lasting impact of the injuries on the claimant's earning capacity. Given the functional limitations caused by the injury, it would be appropriate to fix the disability at 85% instead of 60%. Furthermore, the Tribunal fixed the notional monthly income at Rs.12,000, which is on the lower side. In light of the Supreme Court's judgment in the case of *Andal v. Avinash*, the appropriate notional monthly income for a person of the claimant's age and occupation should be fixed at Rs.13,000. Considering the claimant was 27 years



old at the time of the accident, an additional 40% needs to be added for future prospects, raising the monthly income to Rs.18,200 (Rs.13,000 + Rs.5,200).

Applying the multiplier of 17 as laid down in *Sarla Verma v. Delhi Transport Corporation*, the loss of earning capacity would be Rs.18,200 X 12 X 17 X 85% = Rs.31,55,880. The compensation awarded under the other heads are just and the same does not warrants interference.

11. Consequently, the total compensation amount is increased from Rs.23,08,800/- to Rs.34,08,180/- and the revised compensation is as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1	Loss of earning capacity	Rs.2,056,500	Rs.3,155,880	Enhanced
2	Pain and suffering	Rs.100,000	Rs.100,000	Confirmed
3	Loss of income	Rs.60,000	Rs.60,000	Confirmed
4	Medical expenses	Rs.22,300	Rs.22,300	Confirmed
5	Attendant charges	Rs.35,000	Rs.35,000	Confirmed



S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
6	Transportation	Rs.10,000	Rs.10,000	Confirmed
7	Loss of amenities	Rs.15,000	Rs.15,000	Confirmed
8	Extra nourishment	Rs.10,000	Rs.10,000	Confirmed
	Total	Rs.2,308,800	Rs.3,408,180	Enhanced

12. In the result, the Civil Miscellaneous Appeal filed by the appellant is disposed of and the respondent is directed to deposit the award amount now determined by this Court, together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit (less the default period, if any) along with interest and costs, if not already deposited, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit, the appellant is permitted to withdraw the award amount along with proportionate interest and costs, less the amount if any, already withdrawn. The appellant is directed to pay the additional court-fee if any on the enhanced compensation. No costs.



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(R.S.K., J) (A.D.M.C., J)

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Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation: Yes / No

R.SURESH KUMAR, J
and
DR. A.D. MARIA CLETE, J

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To

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

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

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