

C.M.A.(MD)Nos.535 & 894 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED : 12.03.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)Nos.535 & 894 of 2024

and

C.M.P.(MD)Nos.6920 & 9607 of 2024

C.M.A.(MD)No. 535 of 2024

The Managing Director,
Tamil Nadu State Transport Corporation,
having its office at
37, Mettupalaiyam Road,
Coimbatore District.

... Appellant

Vs.

Mr.Ganesan,
S/o.Balakrishnan,
Avarapalaiyam,
Vallipuram Panchayat,
Near Co-operative Society,
Merkupathi Post,
Avinasi Taluk,
Tiruppur District.

... Respondent



C.M.A.(MD)Nos.535 & 894 of 2024

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, to set aside the award made in M.C.O.P.No.59 of 2018 dated 15.06.2023 on the file of the Motor Accdient Claims Tribunal cum Special Sub Court, Dindugl.

C.M.A.(MD)No.894 of 2024

The Managing Director,
Tamil Nadu State Transport Corporation,
having its office at
37, Mettupalaiyam Road,
Coimbatore District.

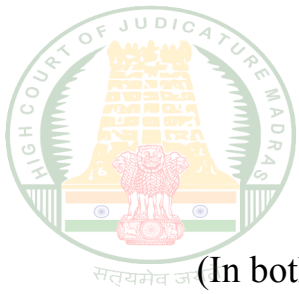
... Appellant

Vs.

Mrs.Selvi,
W/o.Ganesan
Avarapalaiyam,
Vallipuram Panchayat,
Near Co-operative Society,
Merkupathi Post,
Avinasi Taluk,
Tiruppur District.

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, to set aside the award made in M.C.O.P.No.57 of 2018 dated 15.06.2023 on the file of the Motor Accdient Claims Tribunal cum Special Sub Court, Dindugl.



C.M.A.(MD)Nos.535 & 894 of 2024

(In both cases)

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For Appellant : Mr.P.Prabhakaran

For Respondents : Mr.C.K.M.Appaji

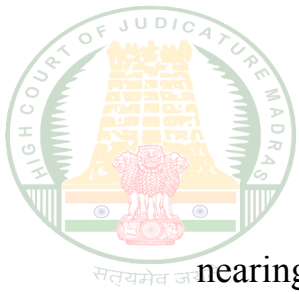
COMMON JUDGMENT

These Civil Miscellaneous Appeals are filed challenging the award dated 15.06.2023 passed in M.C.O.P.Nos.59 and 57 of 2018 on the file of Motor Accdient Claims Tribunal cum Special Sub Court, Dindigul.

2. For the sake of convenience, the parties herein are referred to, as per their rank before the Tribunal.

3. The brief facts in a nutshell are as follows:

(i) The injured are the claimants / Petitioners. The respondent is the Transport Corporation. On 07.08.2017 at about 12:45 a.m. while the petitioners were travelling in the respondent's bus bearing Registration No.TN-33-N-3791 from Tirupur to Tirunelveli and when the bus was



C.M.A.(MD)Nos.535 & 894 of 2024

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nearing Kallimanthayam - Dharapuram road near Vinayaga Mill, the respondent's driver while attempting to overtake another vehicle ahead, lost control of the bus and collided with a lorry which came from the opposite direction. As a result of which the petitioners sustained grievous injuries, including fractures and lacerated injuries all over their bodies. They were first admitted to Oddanchatram Government Hospital for initial treatment and subsequently referred to the Dindigul Government Headquarters Hospital for intensive care on 07.08.2017.

(ii) The petitioner in M.C.O.P.No.59 of 2018 underwent treatment at the Dindigul Government Hospital as inpatient till 08.08.2017. He was subsequently referred to Karunya Medical College, at Palakkad, Kerala, where he was treated as inpatient from 12.08.2017 to 16.08.2017. For which he had incurred a medical expenditure of Rs.1,00,000/-, for the treatment.

(iii) As far as the petitioner in M.C.O.P.No.57 of 2018 is concerned, she underwent treatment at the Dindigul Government Hospital as inpatient till 08.08.2017. She was subsequently referred to Karunya Medical College, at Palakkad, Kerala, where she was treated as inpatient on 09.08.2017, 10.08.2017, and from 12.08.2017 to 16.08.2017, for which she had incurred a medical expenditure for more than Rs.1,00,000/- for the

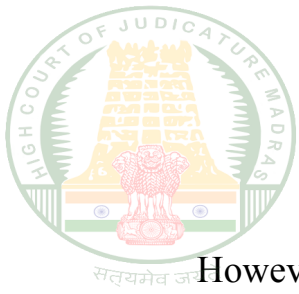


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treatment. A criminal case was registered in Crime No.140 of 2017 by the Kallimanthaiyam Police Station for the offences punishable under Sections 279 and 337 of IPC as against the respondent's driver. Hence, the petitioners have laid these M.C.O.P as against the respondent.

(iv) On the side of the petitioner, the Trial Court had examined two witnesses and marked Ex.P.1 to Ex.P.12. On the side of the respondent, one witness was examined and no documents were marked. However, two documents i.e., the disability certificate of both the petitioners were marked as Ex.C.1 and Ex.C.2, since both the M.C.O.Ps were heard together by the Tribunal.

4. In M.C.O.P.No.57 of 2018, the Tribunal assessed the petitioner's disability at 28% and awarded compensation at the rate of Rs.5000/- per percentage, arriving at a total compensation of Rs.1,40,000/-. As far as the M.C.O.P.No.59 of 2018 is concerned, the Tribunal fixed the disability at 15% and applying the same rate of Rs.5000/- per percentage, awarded compensation of Rs.75,000/-. Challenging the said awards, passed by the Tribunal, the Transport Corporation has preferred an appeal before this Court on the grounds that the compensation awarded is exorbitant and also that the entire negligence has been fixed on the driver of the respondent.



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However, the same ought to have been fixed at 50% on the driver of the lorry as well.

5. However, considering the fact that the FIR was registered as against the driver of the respondent, the Tribunal rightly attributed the entire liability on the respondent Corporation. Hence, I am not inclined to interfere with the same, since the same is on the basis of evidence properly adduced before the Tribunal and on the appropriate appreciation by the Tribunal. As far as adoption of Rs.5000/- per percentage of disability is concerned, since the accident occurred during the year 2017, I am of the considered view that, the right amount of calculation for partial permanent disability during the year 2017 per percentage ought to have been Rs. 3000/-. Accordingly, the compensation for partial permanent disability is reduced from Rs.5000/- to Rs.3000/-. Furthermore, the interest awarded by the Tribunal at the rate of 9% is found to be on the higher side and is hereby reduced to 7.5% per annum. Considering all the above circumstances, the awards passed by the Tribunal is modified as follows:



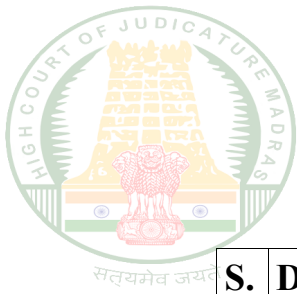
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In M.C.O.P.No.59 of 2018

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S. N o.	Description	Amount awarded by the Tribunal	Amount awarded by this Court	Award confirmed or enhanced
1.	Loss of Income (Rs.12,000/- x 1 month)	Rs.12,000/-	Rs.12,000/-	Confirmed
2.	For Partial Permanent Disability (Rs.3000/- x 15%)	Rs.75,000/-	Rs.45,000/-	Reduced
3.	Medical Expenses	Rs.16,965/-	Rs.16,965/-	Confirmed
4.	Transport Charges	Rs.5,000/-	Rs.5,000/-	Confirmed
5.	Extra Nourishment	Rs.2,000/-	Rs.2,000/-	Confirmed
6.	Damages to Clothing and Articles	Rs.1,000/-	Rs.1,000/-	Confirmed
7.	Pain and Sufferings	Rs.15,000/-	Rs.15,000/-	Confirmed
8.	Loss of Amenities	Rs.15,000/-	Rs.15,000/-	Confirmed
9.	Attender Charges	Rs.2000/-	Rs.2000/-	Confirmed
	Total	Rs.1,43,965/-	Rs.1,13,965/-	Reduced by Rs.30,000/-

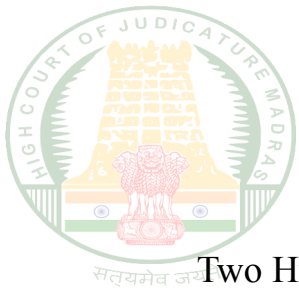
In M.C.O.P.No.57 of 2018



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S. No.	Description	Amount awarded by the Tribunal	Amount awarded by this Court	Award confirmed or enhanced
1.	Loss of Income (Rs.12,000/- x 1 month)	Rs.8,000/-	Rs.8,000/-	Confirmed
2.	For Partial Permanent Disability (Rs.3000/- x 28%)	Rs.1,40,000/-	Rs.84,000/-	Reduced
3.	Medical Expenses	Rs.17,299/-	Rs.17,299/-	Confirmed
4.	Transport Charges	Rs.5,000/-	Rs.5,000/-	Confirmed
5.	Extra Nourishment	Rs.2,000/-	Rs.2,000/-	Confirmed
6.	Damages to Clothing and Articles	Rs.1,000/-	Rs.1,000/-	Confirmed
7.	Pain and Sufferings	Rs.15,000/-	Rs.15,000/-	Confirmed
8.	Loss of Amenities	Rs.15,000/-	Rs.15,000/-	Confirmed
9.	Attender Charges	Rs.2000/-	Rs.2000/-	Confirmed
	Total	Rs.2,05,299/-	Rs.1,49,299 /-	Reduced by Rs.56,000/-

6. In the result, these Civil Miscellaneous Appeals are partly allowed and in M.C.O.P.No.59 of 2018, the compensation awarded by the Tribunal at Rs.1,43,965/- is hereby reduced to Rs.1,13,965/- (Rupees One Lakh Thirteen Thousand Nine Hundred and Sixty Five only) and in M.C.O.P.No. 57 of 2018, the compensation awarded by the Tribunal at Rs.2,05,299/- is hereby reduced to Rs.1,49,299/- (Rupees One Lakh Forty Nine Thousand



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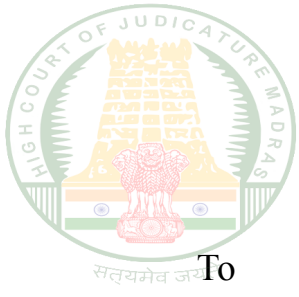
Two Hundred and Ninety Nine only) with the interest at 7.5% p.a. from the date of the claim petition till the date of realization (excluding the period of dismissal for default if any) and costs, less the amount already deposited, if any. The claimants are entitled to get compensation, as per the apportionment made by the Tribunal.

7. The appellant / Transport Corporation is directed to deposit the compensation amount as awarded by the Tribunal with accrued interest and costs to the credit of M.C.O.P.Nos.59 and 57 of 2018 before the Motor Accident Claims Tribunal cum Special Sub Court, Dindigul, within a period of four weeks (4) from the date of receipt of copy of this judgment. On such deposit, the claimants are permitted to withdraw the said amount, by making necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petitions are closed.

12.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes

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To

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1. The Special Sub Court / Motor Accident Claims Tribunal ,
Dindigul.

2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.,

jbr

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