

C.M.A.(MD)No.196 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.02.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)No.196 of 2019

and

C.M.P.(MD)No.2544 of 2019

The Managing Director,
Tamil Nadu Transport Corporation,
Bye Pass Road,
Madurai.

... Appellant / Respondent

Vs.

1.Muthu (Died)

2.M.Rakkammal

3.M.Muthu Eswari

4.M.Jeyaraman

... Respondents

(Respondents 2 to 4 are impleaded as LRS of deceased sole respondent vide Court order dated 05.09.2019 made in C.M.P(MD)No.7166 to 7169/2019 in C.M.A.No. 196/2019)

(Name of the 4th respondent is amended vide Court order dated 10.07.2023 made in C.M.P.(MD)No.1442 of 2022 in C.M.A.(MD)No.196/2019)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award made in M.C.O.P.No.671 of 2009 dated 02.04.2016 on the file of the Motor Accident Claims Tribunal / III Additional Sub Court, Madurai.



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For Appellant : Mr.P.Prabhakaran

R-1 : Died

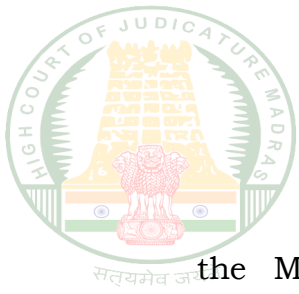
For R-2 to R-4 : No appearance

JUDGMENT

This Civil Miscellaneous Appeal is filed against the award and decree made in M.C.O.P.No.671 of 2009 dated 02.04.2016 on the file of the Motor Accident Claims Tribunal / III Additional Sub Court, Madurai.

2.For the sake of convenience, the parties herein are referred to as per their ranking before the Trial Court.

3.On 06.11.2008, at about 7.45 P.M., while the petitioner was riding in a cycle along the Madurai to Theni main road near Valandur Kodipulli Thottam, from the east to west direction, the Government bus bearing Registration No. TN 58 N 0740 which came into opposite direction dashed against the claimant. As a result of which, the claimant had sustained multiple injuries and fractures. Hence, claiming compensation, the claimant filed M.C.O.P.No.671 of 2009 on the file of

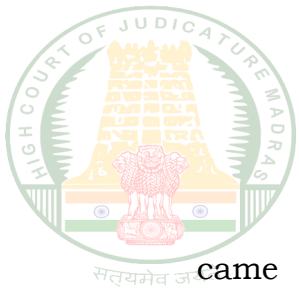


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the Motor Accident Claims Tribunal / III Additional Sub Court,
Madurai.

4.The learned Tribunal examined three witnesses on the side of the petitioner and marked Ex.P-1 to Ex.P-9 and did not examine any witness on the side of the respondent, documents were also not marked. On the basis of the arguments made by the respective parties, the materials available on record and the evidence deposited on the side of the petitioner, the learned Tribunal passed an award of Rs.2,77,000/- (Rupees Two Lakhs Seventy Seven Thousand only). Challenging the same, the Insurance Company is before this Court by way of a Civil Miscellaneous Appeal.

5.A total amount of Rs.2,77,000/- (Rupees Two Lakhs Seventy Seven Thousand only) has been awarded as compensation for the partial disability incurred by the claimant. The partial disability was fixed at 54%, and the medical documents were marked as Exhibit B8. An accident occurred on 06.11.2008 and at that point of time only Rs. 2000/- (Rupees Two Thousand only) for one percent of disability ought to have been fixed. However Rs.3000/- (Rupees Three Thousand only)



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came to be fixed and thus a total amount of compensation of Rs. 2,77,000/- (Rupees Two Lakhs Seventy Seven Thousand only) has been arrived at by the learned Motor Accident Claims Tribunal. But the pertinent point is that the claim made by the claimant itself is Rs. 2,00,000/- (Rupees Two Lakhs only).

6. But the learned Tribunal had come forward to pass a compensation of Rs.2,77,000/-(Rupees Two Lakhs Seventy Seven Thousand only). However, this Court is of the considered view that since the payment of the compensation amount has been delayed due the pendency of this CMA, the compensation per percentage of disability can be fixed at Rs.2500/- (Rupees Two Thousand and Five Hundred only). Hence, under the head of loss of partial disability is modified from Rs.1,62,000/- (Rupees One Lakh Sixty Two Thousand only) to Rs. 1,35,000/- (Rupees One Lakh and Thirty Five Thousand only) and all the other heads would remain the same. The modified amount is as follows:



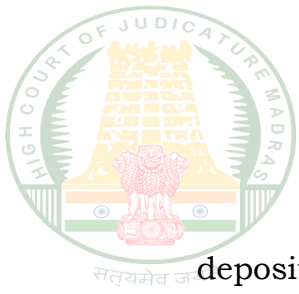
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S.No.	Description	Amount
1.	Loss of partial disability (Rs.2500 * 1% * 54*)	Rs.1,35,000
2.	Future Medical expenses	Rs. 40,000
3.	Pain and sufferings	Rs. 25,000
4.	Loss of income	Rs. 35,000
5.	Medical attendants	Rs. 5,000
6.	Nourishment	Rs. 10,000
	Total	Rs.2,50,000/-

7.With the above modification, this Civil Miscellaneous Appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

8.The appellant is directed to deposit the modified compensation amount, that is, Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand only) with accrued interest and costs to the credit of M.C.O.P.No.671 of 2009 on the file of the Motor Accident Claims Tribunal / III Additional Sub Court, Madurai, within a period of eight weeks (8) from the date of receipt of copy of this judgment, less the amount, if any already



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deposited. On such deposit, the claimants are permitted to withdraw the said amount, less the amount, if any already withdrawn, by making necessary application before the Tribunal. No costs.

14.02.2025

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

To

The Motor Accident Claims Tribunal /
III Additional Sub Court, Madurai.

Copy to

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



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L.VICTORIA GOWRI, J.,

Sml

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