

C.M.A.(MD) No.1313 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2025

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A.(MD)No.1313 of 2024

and C.M.P(MD)No.14118 of 2024

Tamil Nadu State Transport Corporation,
Kumbakonam Division II Limited,
Periamilaguparai, Trichy
Represented by the Managing Director

...Appellant

vs.

M.Balaji

... Respondent

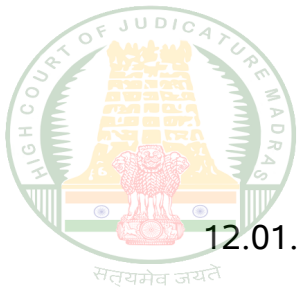
PRAYER: Civil Miscellaneous Appeal is filed under Section 173 (1) of Motor Vehicles Act, 1988, to set aside the order and decretal order dated 12.01.2023 made in M.C.O.P.No.113 of 2018 on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate Court, Karur.

For appellant : Mr.K.Ramaiah

For Respondents : Mr.L.Prabakaran

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the Tamil Nadu State Transport Corporation (TNSTC) against the Award dated



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12.01.2023 made in M.C.O.P.No.133 of 2018 passed by the Motor Accident Claims Tribunal / Chief Judicial Magistrate Court, Karur as regards negligence as well as on quantum.

2. Heard the arguments of the learned counsel for the appellant and the learned counsel for the respondent.

3. Upon consideration of the evidence, the Tribunal saddled the liability upon the respondent corporation and a sum of Rs.7,73,300/- was ordered as compensation payable by the appellant herein. The compensation granted by the Tribunal under various heads are given hereunder:

Sl. No.	Description	Amount awarded by Tribunal
1	For Permanent Disability	Rs.3,62,880/-
2	For Pain and Suffering	Rs.40,000/-
3	For Transport Expenses	Rs.10,000/-
4	For Attendant Charges	Rs.10,000/-
5	For Nutrition	Rs.10,000/-
6	For Medical Bills	Rs.3,28,418/-
7	For Loss of Amenities	Rs.10,000/-
8	For Loss of damages to clothes	Rs.2,000/-
	Total	Rs.7,73,298/- rounded off to Rs.7,73,300/-



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4. The learned counsel appearing for the appellant would vehemently contend that it is because of the rash and negligent driving of the motor cycle, the accident occurred and in fact, the driver of the T.N.S.T.C bus drove the vehicle carefully and fastening liability upon the Transport Corporation by the Tribunal is totally incorrect. The Tribunal fixed the functional disability at 12% and the loss of earning power was calculated by invoking the multiplier method is also not correct.

5. Per contra, the learned counsel appearing for the respondent / claimant would strenuously argue that at the age of 23 years, the claimant herein, on account of the accident suffered fracture of right shaft of femur. After accident, he is not in a position to do his part time job as Tiles Mason. In consideration of the injuries and fractures suffered by the claimant, the Tribunal has rightly invoked multiplier method for computation of loss of future income.

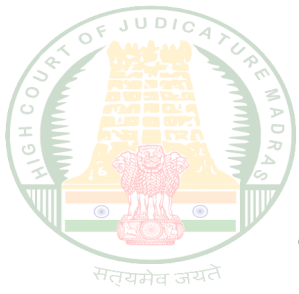
6. It has come on record through the evidence of P.W1 - Balaji that on 22.11.2017 at about 06.15 p.m., while one Periyasamy was carefully riding the motor cycle bearing Registration No.TN-22-BU-4140 along with the pillion / petitioner and one Thangaraj along the Karur to Dindigul road was proceeding from south to north near RV Bricks, Manavadi, the



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TNSTC bus bearing Registration No.TN-45-N-2301 came from the opposite direction in a rash and negligent manner with over speed and without blowing horn, dashed against the motorcycle and caused the accident. Due to the said impact, the claimant suffered injuries over the head and all over his body. Immediately, he was taken to Amaravathi Hospital, Karur, where he was given first aid. Thereafter, for further management, he was shifted to Madurai Government Hospital on the same day, where he was under treatment till 01.01.2018 as an in patient.

7. Whereas, on the side of the respondent corporation bus, the driver of the bus Mr.Paramalingam-R.W1 would in fact, on 22.11.2017, while, he was driving the bus from north to south (TN-45-N-2301) carefully and the rider of the two wheeler (TN-22-BU-4140) without following the traffic rules hit upon the bus and thereby the accident occurred. The Tribunal by analysing both side evidences has held that the driver of the respondent corporation bus is the tortfeasor and therefore, the liability is saddled upon the respondent corporation to pay compensation to the injured claimant herein. From the combined reading of both side evidence, it is pellucid that because of the rash and negligent driving of the driver of the respondent corporation bus the accident happened. This Court does not find any perversity or infirmity in the findings of the Tribunal.



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8. It has come record through the evidence of P.W1 that he was admitted at Amaravathi Hospital, Karur and on the same day, he was shifted to Rajaji Government Hospital, Madurai and got discharged only on 01.01.2018. Due to the accident, he has become permanently disabled and unable to attend the day to day work and his part time work as he did before. As a part time tiles mason, he was earning not less than 10,000/- per month. He was a student of Diploma Civil Engineering and secured 92% in the 4th and 5th semesters and after the accident, he secured 77% in the 6th semester.

9. That apart, the Karur District Medical Board has assessed his disability as 12%. At the time of accident, he was aged about 24 years as per the medical records. He suffered fracture over right femur and operated at the private hospital. Where Interlocking nail fixation was done. It appears that on 20.03.2019, he was admitted at Ganga Hospital, Coimbatore and discharged on 26.03.2019. From the discharge summary of Ganga Hospital (Ex.P8 and Ex.P9), it is inferable that he suffered nonunion of mid 3rd right shaft of femur fracture with bone loss and non-bridging collapse over medial aspect. On 21.03.2019, he underwent surgery and implants were removed over right femur. After the accident, he medical records depict the fact that he was under continuous treatment. Considering the impact and effect of the injuries



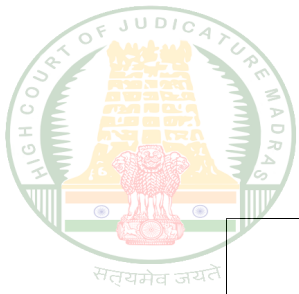
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and fracture (Ex.P6, Ex.P8 and Ex.P9), the Tribunal has rightly invoked the multiplier method by fixing functional disability at 12%. After the accident, because of the fracture, it appears that the claimant secured lesser marks compared to the marks secured in the earlier semesters.

10. P.W1 would state that he was working as Tiles Mason and earning a sum of Rs.10,000/- per month, which cannot be found fault with. The relevant multiplier to be adopted is '18'. The Tribunal has fixed the notional income as Rs.10,000/- per month, adding 40% as future prospects and multiplier '18' was taken for 12% functional disability, and the loss of future income was calculated at Rs.3,62,880/-. For computing loss of future income, the following formula emerges:

$$\begin{aligned}\text{For Loss of future income} &= \text{Rs.10,000/-} \times 12\% \times 12 \times 18 \text{ 'm'} \\ &= \text{Rs.2,59,200/-}\end{aligned}$$

11. As regards the other heads, the amounts awarded by the Tribunal appears to be reasonable and acceptable and hence, it needs no interference. The compensation granted by the Tribunal is reworked and tabulated hereunder.



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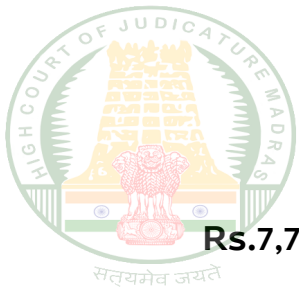
Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For Loss of Future Income	Rs.3,62,880/-	Rs.2,59,200/-	Reduced
2	For Pain and Suffering	Rs.40,000/-	Rs.40,000/-	Confirmed
3	For Transport Expenses	Rs.10,000/-	Rs.10,000/-	Confirmed
4	For Attendant Charges	Rs.10,000/-	Rs.10,000/-	Confirmed
5	For Nutrition	Rs.10,000/-	Rs.10,000/-	Confirmed
6	For Medical Bills	Rs.3,28,418/-	Rs.3,28,418/-	Confirmed
7	For Loss of Amenities	Rs.10,000/-	Rs.10,000/-	Confirmed
8	For Loss of damages to clothes	Rs.2,000/-	Rs.2,000/-	Confirmed
	Total	Rs.7,73,298/- Rounded off to Rs.7,73,300/-	Rs.6,69,618/- Rounded off to Rs.6,69,620/-	Reduced

12. Thus, the compensation awarded by the Tribunal is reduced from **Rs.7,73,300/-** to **Rs.6,69,620/-** which would carry interest at the rate of 7.5% per annum.

10. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. There is no order as to costs.

(ii) The Compensation awarded by the Tribunal is reduced from



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Rs.7,73,300/- to Rs.6,69,620/-.

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(iii) The Appellant / Transport Corporation is directed to deposit the modified compensation amount i.e., **Rs.6,69,620/-** (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of filing of petition till the date of realisation to the credit of M.C.O.P.No.113 of 2018 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Karur, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the respondent / claimant is at liberty to withdraw the same as per the Orders passed by the Tribunal after following due process of law. Consequently, connected civil miscellaneous petition is closed.

27.02.2025

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

1. The Motor Accident Claims Tribunal,
Chief Judicial Magistrate Court, Karur.

2.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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R.KALAIMATHI,J.,

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