

C.M.A(MD)No.863 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATE : 25.08.2025

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THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.M.A(MD)No.863 of 2025

and

C.M.P(MD)No.13464 of 2025

Tamil Nadu State Transport Corporation Ltd.,
Rep.By its Branch Manager,
Periyamilauparai, Trichy.

: Appellant

Vs.

Amudha

: Respondent

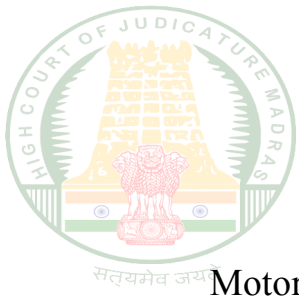
PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree in M.C.O.P. No.248 of 2025, dated 07.04.2025, on the file of Motor Accidents Claims Tribunal cum Special Subordinate Judge, Tiruchirappalli.

For Appellant : Mr.A.Micheal Heldon Kumar

For Respondent : Mr.D.Boopal

J U D G M E N T

The Civil Miscellaneous Appeal is directed against the award passed in M.C.O.P.No.248 of 2025, dated 07.04.2025, on the file of



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Motor Accidents Claims Tribunal cum Special Subordinate Judge,
Tiruchirappalli.

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2.The appellant/Transport Corporation, who was mulcted with liability to pay compensation of Rs.13,23,852/- with interest at 7.5% per annum to the respondent/claimant, for the disability sustained by him consequent to an accident occurred on 18.05.2024, challenged the liability fastened on it and also the quantum of compensation awarded at by the Tribunal.

3.When the matter is taken up for hearing today, the learned counsel for the appellant would submit that they are not challenging the liability, but questioned the quantum of compensation.

4.The case of the claimant is that on 18.05.2024 at about 07.20 pm, the petitioner was walking along with her son at Chathiram Bus Stand near Samayapuram Bus Stand from east to west direction extreme left side of the road, at that time, the State Transport Corporation bus bearing Reg.No.TN-68-N-0457, which was driven by its driver in a



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rash and negligent manner, dashed against the petitioner, as a result of which, the respondent/claimant sustained grievous injuries and that the accident was occurred only due to the rash and negligent driving of the bus driver.

5. During enquiry, the claimant examined herself as P.W.1 and exhibited six documents as Ex.P.1 to Ex.P.6. The appellant/Transport Corporation examined its driver as R.W.1 and adduced no documentary evidence. The disability certificate issued by the Medical Board came to be exhibited as Ex.C.1.

6. The learned trial Judge, upon considering the pleadings and the evidence both oral and documentary and on hearing the arguments of both the sides, passed the impugned award, dated 07.04.2025 holding that the bus driver was responsible for the accident, directed the appellant to pay compensation of Rs.13,23,852/- with interest and costs. Aggrieved by the impugned award, the appellant has preferred the present appeal.



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7.The learned counsel appearing for the appellant would submit that the Medical Board has fixed the disability at 31% and the Tribunal without any basis has awarded disability compensation at Rs.3,10,000/-.

8.The claimant's specific case is that the accident caused multiple grievous injuries, including a severe degloving injury with heel pad avulsion of the right ankle and foot, along with fractures of the medial malleolus and distal fibula, and a fracture of the proximal phalanx of the left little finger.

9. It is evident from the records that the claimant was immediately admitted in Government Hospital, Trichy and on the next day, she was admitted in CSI Mission Hospital, Trichy and was discharged on 10.07.2024. The Medical Board examined the claimant and fixed the percentage of disability at 31%. At this juncture, it is necessary to refer the decision of Honourable Supreme Court in **Raj Kumar Vs. Ajaykumar and another**, reported in **(2011) 1 Supreme Court Cases 343** :



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“12. Therefore, the Tribunal has to first decide whether there is any permanent disability and, if so, the extent of such permanent disability. This means that the Tribunal should consider and decide with reference to the evidence :

(i) Whether the disablement is permanent or temporary ;

(ii) if the disablement is permanent, whether it is permanent total disablement or permanent partial disablement;

(iii) if the disablement percentage is expressed with reference to any specific limb, then the effect of such disablement of the limb on the functioning of the entire body, that is, the permanent disability suffered by the person.

If the Tribunal concludes that there is no permanent disability then there is no question of proceeding further and determining the loss of future earning capacity. But if the Tribunal concludes that there is permanent disability then it will proceed to ascertain its extent. After the Tribunal ascertains the actual extent of permanent disability of the claimant based on the medical evidence, it has to determine whether such permanent disability has affected or will affect his earning capacity.

Para 19:



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19. *We may now summarise the principles discussed above :*

(i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.

(ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that percentage of loss of earning capacity is the same as percentage of permanent disability).

(iii) The doctor who treated an injured-claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.

(iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors.”



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10.In the case on hand, considering the medical evidence available on record, the Tribunal has rightly applied the percentage method.

11.The learned counsel for the appellant would submit that awarding of Rs.10,000/- per percentage is excessive. Considering the fact that the accident was occurred on 18.05.2024, awarding of Rs.10,000/- per percentage is reasonable and the same cannot said to be excessive.

12. The Tribunal, by relying on the decision of Hon'ble Supreme Court in the case of *Syed Sadiq Vs. Divisional Manager, United India Insurance Co., Ltd.*, reported in *2014(2) SCC 735*, wherein notional income of the vegetable vendor in the year 2014 was fixed as Rs.6,500/- per month and taking note of the cost of inflation index issued by the Central Board of Direct Tax (CBDT), has fixed notional monthly income at Rs.17,500/-. Considering the nature of injuries and the period of inpatient treatment, the Tribunal has rightly awarded **Rs.1,75,000/-** for loss of income during the treatment period.



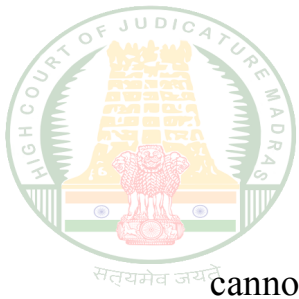
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13. The learned counsel for the appellant would submit that the Tribunal has awarded Rs.30,000/- for loss of amenities; Rs.1,20,000/- towards pain and sufferings; Rs.30,000/- towards attender charges; Rs.20,000/- towards transportation charges; Rs.20,000/- towards extra nourishment; Rs.30,000/- for future medical bills and Rs.2,000/- for damages to cloths and the same are highly excessive and the same are liable to be modified.

14. As rightly contended by the learned counsel for the appellant, without permanent or functional disability, awarding compensation for loss of amenities is unwarranted.

15.As rightly pointed out by the learned counsel for the appellant, the amount awarded under the head of pain and sufferings appears to be excessive. Considering the nature of injuries, consequent disability sustained and the period of inpatient treatment and other attending circumstances, awarding Rs.30,000/- for attender charges, Rs.20,000/- for transportation charges and Rs.20,000/- for extra nourishment and Rs.30,000/- towards future medical expenses are reasonable and the same



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cannot said to be excessive, but the amount awarded under the head of pain and sufferings is reduced and fixed at Rs1,00,000/-. Considering the above, the claimant is entitled to get compensation under the various heads as follows:

Head of compensation	Amount awarded by the tribunal	Amount confirmed/ modified by this Court
Disability Compensation	Rs.3,10,000/-	Rs.3,10,000/-
Medical Expenses	Rs.5,86,852/-	Rs.5,86,852/-
Loss of income (during treatment period)	Rs.1,75,000/-	Rs.1,75,000/-
Loss of Amenities	Rs.30,000/-	-
Pain and sufferings	Rs.1,20,000/-	Rs.1,00,000/-
Attender Charges	Rs.30,000/-	Rs.30,000/-
Transportation Charges	Rs.20,000/-	Rs.20,000/-
Extra Nourishments	Rs.20,000/-	Rs.20,000/-
Damages to cloths	Rs.2,000/-	Rs.2,000/-
Future Medical Expenses	Rs.30,000/-	Rs.30,000/-
Total	Rs.13,23,852/-	Rs.12,73,852/-

Considering the other facts and circumstances, this Court further decides that the parties are to be directed to bear their own costs and the above point is answered accordingly.



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16. In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the tribunal is reduced from **Rs.13,23,852/-** to **Rs.12,73,852/-**. The Appellant/Transport Corporation is directed to deposit the modified amount with interest at 7.5% per annum, within a period of four weeks from the date of receipt of a copy of this judgment, if not already deposited and on such deposit, the claimant is permitted to withdraw the award amount with accrued interest and costs, less amount already withdrawn, if any, on due application before the Tribunal. Parties are directed to bear their own costs. Consequently, connected Miscellaneous Petition is closed.

25.08.2025

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

1.The Motor Accidents Claims Tribunal
(Special District Judge) Madurai.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

das

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