Order QR

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-10-2026

CORAM

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

CMA No. 2622 of 2024

CNR: {HCMA011199262024}

Santhosh
S/o. Periyasamy, 3/64, Nilavarapatty, Trichy Main Road, Salem - 201.

..Appellant(s)

Vs

The Managing Director
Tamil Nadu State Transport Corporation Salem Ltd., 3/137, Salamedu, Vazhuthareddy Post, Villupuram Taluk

..Respondent(s)

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, by enhancing the compensation awarded in the fair and decretal order, dated 26.04.2023 passed in MCOP No.2023 of 2019, on the file of the Motor Accident Claims Tribunal (Special Sub Court No.1, Salem) .

For Appellant(s) : Mr.Amar D.Pandiya

For Respondent(s) : Mr.T.Chandrasekaran

JUDGMENT

Unsuccessful claimant has preferred the present Civil Miscellaneous Appeal seeking enhancement of compensation.

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2. Claim petition was filed under Section 166 of the Motor Vehicles Act, seeking compensation for the injuries sustained by him, in a road accident.

3. According to the claimant, on 06.07.2016, at about 12.30 a.m., he was travelling in a TNSTC bus bearing Registration No. TN 32 N 3749 from Salem to Villupuram. When the bus was nearing the Thalaivasal bus stop, driven by its driver in a rash and negligent manner and hit another bus bearing Registration No. TN 30 N 0803, which was standing at the bus stop. As a result, the claimant sustained injuries to his left thigh. Immediately, he was taken to the Government Hospital, Attur, for treatment. Hence, the accident occurred solely due to the rash and negligent driving of the driver of the bus. It is the further claim of the claimant that he was aged about 27 years at the time of accident and was working as a civil engineer and earning Rs.35,000/- per month.

4. The respondent Transport Corporation filed a counter statement denying the manner of the accident.

5. Before the Tribunal, the claimant himself examined as P.W.1, and an eyewitness, Balasubramanian, was examined as P.W.2, and Karthik was examined as P.W.3. Exs.P1 to P13 were marked. On the side of the respondent, the driver of the bus was examined as R.W.1 and no document was marked. Ex.C1 and Ex.C2 were marked.

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6. Upon appreciation of the evidence adduced on either side, the Tribunal held that the accident had occurred solely due to the rash and negligent driving of the bus driver. The claimant was referred to the Medical Board and the Medical Board has issued Ex.C1/Disability Certificate, wherein, the disability of the claimant was assessed at 30%. Hence, the Tribunal has taken the disability of the claimant as 30% and by applying the ratio laid down by this Court in the case of ***M.Chinnathambi vs. Deepa and other reported in 2020 (1) TNMAC 617***, the Tribunal has fixed a sum of Rs.5,000/- for each percentage of disability and awarded a sum of Rs.1,50,000/- under the head of permanent disability and the following compensation was awarded under various heads :-

S.No.	Heads of Compensation	Amount awarded by the Tribunal
1	Pain and suffering	Rs.30,000/-
2	Loss of income	Rs.30,000/-
3	Medical expenses	Rs.2,59,120/-
4	Transportation charges	Rs. 10,000/-
5	Extra nourishment	Rs. 10,000/-
6	Attender charges	Rs. 10,000/-
7	Damage to clothes	Rs. 1,000/-
8	Loss of amenities	Rs. 10,000/-
9	Permanent disability	Rs.1,50,000/-
	Total	Rs.5,10,120/-

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7. Aggrieved over the same, the claimant has preferred the present appeal seeking enhancement of compensation.

8. The learned counsel appearing for the appellant/claimant would submit that the claimant sustained an open Type III B segmental fracture of both bones of the left leg with skin loss, along with a crush laceration over the right ankle exposing the muscles and tendon and other injures, considering the nature of the injuries sustained and the treatment undergone, the Tribunal ought to have awarded compensation by adopting multiplier method. However, the Tribunal erred in awarding compensation for disability at the rate of Rs.5,000/- per percentage without any contra evidence.

9. The learned counsel would further submit that the injuries sustained by the claimant would result in a loss of earning capacity and that the Tribunal erred in fixing his notional monthly income at Rs.10,000/- without properly considering his contention that he was working as a site engineer and earning Rs.35,000/- per month. The Tribunal also awarded inadequate compensation under the heads of pain and suffering, extra nourishment, attendant charges and loss of income during the treatment period.

10. Per contra, the learned counsel appearing for the respondent/Transport Corporation would submit that, in the absence of evidence establishing

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functional disability or loss of earning capacity, the Tribunal has rightly fixed the income of the claimant and considering the nature of injuries, percentage method was adopted and a sum of Rs.5,000/- for each percentage of disability and there is no reason to interfere with the award passed by the Tribunal . Though the claimant contended that he was working as a site engineer and earning Rs.35,000/- per month, in the absence of proof of income , the Tribunal rightly fixed his notional monthly income at Rs.10,000/- appears to be proper and reasonable.

11. This Court has considered the submissions made on either side and perused the materials available on record.

12. There is no dispute with regard to the manner of the accident or the negligence on the part of the driver of the offending vehicle. It is to be noted that the claimant appeared before the Medical Board, which assessed his permanent disability at 30%. However, there is no evidence on record to establish that the disability assessed by the Medical Board has resulted in functional disability or a corresponding loss of earning capacity.

13. It is relevant to note that the Medical Board has not stated that the injuries sustained by the claimant have resulted in any functional disability or loss of earning capacity. In the absence of any evidence to establish functional

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disability or loss of earning capacity, it is relevant to refer to the judgment of the Hon'ble Division Bench of this Court in ***Reliance General Insurance Company Limited v. M. Manoharan, reported in 2023 (1) TN MAC 348 (DB),*** wherein, it has been held that when the Medical Board has not mentioned that the injuries sustained by the claimant have resulted in functional disability or lost of earning capacity and there is no other evidence to establish the same, the Tribunal is justified in adopting the percentage method rather than the multiplier method. In the present case, in the absence of any evidence establishing functional disability or loss of earning capacity, this Court is of the view that the Tribunal was justified in adopting the percentage method. Therefore, the finding of the Tribunal in this regard does not warrant any interference.

14. As regards the claimant's monthly income, he contended that he was working as a site engineer and earning Rs.35,000/- per month. In support of his claim, he relied upon Ex.P13, a letter addressed by the Office of Shanmugaa Construction to the Manager, Karrur Vysha Bank, Palavakkam Branch, dated 05.02.2020. The claimant has also produced Ex.P11, a letter issued by his employer, which indicates that he had been working as a site engineer since March 2015 and was drawing a monthly salary of Rs.35,000/- as on 05.04.2015. However, Ex.P13, dated 05.02.2020, refers to a monthly salary of Rs.29,600/-. Thus, there is a discrepancy between the two documents with regard to the claimant's monthly income. Further, Ex.P13 was issued

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subsequent to the accident. In view of the discrepancy between the documents and the absence of any satisfactory explanation regarding the difference in the salary amounts, the claimant's monthly income requires to be assessed appropriately.

15. In such circumstances, the notional monthly income of the claimant fixed by the Tribunal at Rs.10,000/- appears to be meagre. Considering the fact that the accident took place in the year 2016, this Court is inclined to enhance the monthly income of the claimant from Rs.10,000/- to Rs.15,000/-. Further, Ex.P3, the copy of Accident Register issued by Government Hospital, Attur, Ex.P4, the Copy of Wound Certificate and Ex.P5/Discharge summary issued by the Ganga Medical Centre and Hospital(P) Ltd., Coimbatore, reveal that the claimant has sustained multiple injuries and was treated for an open type III B segmental fracture both bones left leg with skin loss, crush laceration over right ankle exposing muscles and tendon injuries. The medical records further reveal that the claimant was admitted as an in-patient from 06.07.2016 to 13.07.2016 for eight days The Medical Board has assessed the disability of the claimant as 30% and issued Ex.C1/Disability Certificate. Considering the year of the accident, the nature of injuries sustained by the claimant, and the disability assessed by the Medical Board, this Court is inclined to award a sum of Rs.15,000/- p.m. as loss of income for a period of six months. Accordingly, a sum of Rs.90,000/- (Rs.15,000/- x 6 months) is awarded under the head of loss

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of income. A sum of Rs.30,000/- awarded under the head of "pain and suffering" appears to be meagre and the same is enhanced to Rs.40,000/-. Similarly, a sum Rs.10,000/- awarded under the head of extra nourishment is also very meagre and the same is enhanced to Rs.25,000/- under this head. The compensation awarded by the Tribunal under the other heads, namely, medical expenses, Transportation charges, attender charges, damages to clothes and loss of amenities appears to be just and reasonable.

16. In view of the foregoing discussion, the compensation awarded by the Tribunal is modified and recalculated as follows:-

S.No.	Heads of Compensation	Amount awarded by the Tribunal
1	Pain and suffering	Rs. 40,000/-
2	Loss of income	Rs. 90,000/-
3	Medical expenses	Rs. 2,59,120/-
4	Transportation charges	Rs. 10,000/-
5	Extra nourishment	Rs. 25,000/-
6	Attender charges	Rs. 10,000/-
7	Damage to clothes	Rs. 1,000/-
8	Loss of amenities	Rs. 10,000/-
9	Permanent disability	Rs.1,50,000/-
	Total	Rs.5,95,120/- rounded off to Rs.5,95,000/-

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17. In the result,

i) The Civil Miscellaneous Appeal is partly allowed.

ii) The compensation amount awarded by the Tribunal by enhancing from Rs.5,10,120/- to Rs.5,95,000/- together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit **(except the period of default, if any).**

iii) The second respondent/ Insurance Company is directed to deposit the entire award amount now determined by this Court, **(less the amount already deposited if any)**, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.2023 of 2019 on the file of the Motor Accident Claims Tribunal/ Special Sub Court No.I, Salem.

iv) On such deposit being made, the appellant/claimant is permitted to withdraw the same together with interest and cost by filing necessary application before the Tribunal.

v) The appellant/claimant is directed to pay the Court fee, if required.

vi) The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

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vii) The manner and mode of disbursement of compensation shall be as per the order of the Tribunal. There shall be no order as to costs.

28.10.2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
KKD

To

The Motor Accident Claims Tribunal,

IV Court of Small Causes, Chennai.

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M.JOTHIRAMAN, J.

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