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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. 1467 of 2024

CNR: {HCMA011917732023}

The Managing Director
Tamil Nadu Transport Corporation Villupuram
Ltd, Salamedu, Trichy to Chennai main Road,
Villupuram.

..Appellant(s)

Vs.

Dharman ..Respondent(s)

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the award passed in MCOP No.335 of 2015 on the file Additional Subordinate Court, Kalakurchi before the Motor Accident Claim Tribunal at Kalakurchi,.

For Appellant(s) : Mr.C.R.Sureshkumar

For Respondent(s) : Mr.T.Balachandran

JUDGMENT

Unsuccessful Appellant/Transport Corporation has preferred the present civil miscellaneous appeal challenging the quantum of compensation awarded by the Tribunal.

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2. Claim petition was filed under Section 166 of the Motor Vehicles Act, 1988, seeking compensation for the injuries sustained by the claimant, in a road accident.

3. According to the claimant, on 26.07.2015, at about 9.50 p.m., while he was riding a Bajaj CD 100 bearing Registration No.TN 01 X 5764 on the Kallakurichi National Highway Road at Thiryagadurugam, near Sandhaimedu Road, a bus bearing Registration No.TN 32 N 2281, driven by its driver in a rash and negligent manner from Kallakurichi towards Thiryagadurugam in the opposite direction, dashed against his two-wheeler. Due to the impact, the claimant sustained multiple injuries all over his body.

4. The respondent Transport Corporation filed a counter statement denying the manner of the accident. It was contended that the Thiryagadurugam Police had registered a criminal case against the claimant, who was riding the two-wheeler. It was further contended that the claimant did not possess a valid driving licence and was not wearing a helmet at the time of accident.

5. Before the Tribunal, the claimant examined himself as P.W.1 and an eyewitness, namely, Kulanthaivel, was examined as P.W.2. Exs.P1 to P11 were marked. On behalf of the respondent/Transport Corporation, the driver of the

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bus was examined as R.W.1, and no document was marked. The Disability Certificate was marked as Ex.C1.

6. On appreciation of the evidence adduced on either side, the Tribunal held that the accident had occurred due to the rash and negligent driving of the bus driver. With regard to the quantum of compensation, the Medical Board assessed the claimant's permanent locomotor disability affecting his right upper and lower limbs at 61%. Considering the nature of the claimant's avocation as a labourer and the physical fitness required to perform his day-to-day work, the Tribunal held that the disability had a significant impact on his ability to earn his livelihood. Accordingly, the Tribunal adopted the multiplier method and awarded a sum of Rs.9,83,808/- under the head of permanent disability/loss of earning capacity. The Tribunal also awarded compensation under various other heads as detailed below :-

S.No.	Heads of Compensation	Amount awarded by the Tribunal
1	Disability	Rs.9,83,808/-
2	Medical expenses	Rs. 14,255/-
3	Future medical expenses	Rs. 15,000/-
4	Transportation	Rs. 15,000/-
5	Nutrition	Rs. 15,000/-
6	Attender charges	Rs.20,000/-
7	Mental agony, pain and sufferings	Rs. 50,000/-
8	Damages to clothes	Rs. 2,000/-
	Total	Rs.11,15,063/- rounded off to Rs.11,15,000/-

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7. Aggrieved over the same, the appellant Transport Corporation has preferred the present appeal.

8. The learned counsel for the appellant/Transport Corporation would submit that the Tribunal had failed to consider the fact that the First Information Report had been registered against the claimant, who was riding the two-wheeler. It was further contended that the alleged eyewitness had deposed that the claimant dashed against the right side of the bus. The Tribunal had also failed to consider the fact that, as per Ex.P7/ MVI report, the right side of the bus, from the front to the rear centre portion, had sustained dents. Therefore, the Tribunal had erred in holding that the accident had occurred due to the rash and negligent driving of the bus driver, without properly appreciating the evidence of RW1. It was further contended that, in the absence of evidence establishing functional disability and actual loss of earning capacity, the Tribunal ought not to have adopted the multiplier method. The compensation awarded under the other heads are also on the higher side and the same has to be reduced.

9. Per contra, the learned counsel appearing for the respondent/ claimant would submit that the manner, in which the accident had occurred was clearly established through the evidence of P.W.2, who was an eyewitness to the

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occurrence. It was further submitted that a criminal case has also been registered against the bus driver. Though the M.V.I. Report reveals that the right side of the bus, from the front to the rear centre portion, had sustained dents, the accident had occurred at a turning on the road, and such damage could have been caused when the two vehicles collided with each other. Therefore, the Tribunal has rightly held that the accident had occurred solely due to the rash and negligent driving of the driver of the offending vehicle .

10. The learned counsel further would submit that with regard to the quantum of compensation, considering the nature of the claimant's avocation, the Tribunal had rightly fixed his notional monthly income of Rs.8,400/-. Further, the Medical Board has assessed the claimant's permanent locomotor disability at 61%, which had a considerable impact on his day-to-day activities and earning capacity. Considering the nature of disability and its impact on the claimant's livelihood, the Tribunal had rightly adopted the multiplier method. Therefore, the compensation awarded by the Tribunal under the head of permanent disability /loss of earning capacity as well as under the other heads is just and reasonable and does not warrant any interference by this Court.

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

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12. According to the claimant on 26.07.2015 at about 9.50 p.m. while he was riding his two wheeler on the Kallakurichi National Highway Road at Thiyagadurgam near Sandhaimedu, the driver of the bus, which was coming from the opposite direction, drove the same in a rash and negligent manner and dashed against the claimant. Due to the impact, the claimant sustained multiple injuries all over his body.

13. In order to establish the negligence on the part of the bus driver, the claimant examined himself as P.W.1 and also examined an eyewitness to the occurrence as P.W.2. P.W,1 deposed regarding the manner in which the accident had occurred and stated that the accident was solely due to the rash and negligent driving of the bus driver. Further, the eye-witness, who was examined as P.W.2 he has deposed that the claimant was riding his two wheeler ahead of him and that the TNSTC bus was coming from the opposite direction. He further stated that the claimant's vehicle hit the front right side of the bus. He also admitted that neither the eyewitness nor the claimant had lodged a complaint before the police station. He further admitted that a criminal case was registered against the claimant and stated that the claimant had been taken to the hospital following the accident.

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14. According to the appellant/Transport Corporation, the accident had occurred solely due to the rash and negligent driving of the claimant, who was riding the two wheeler, In order to substantiate its contention, the driver of the bus was examined as RW1. He deposed that the claimant had dashed his two wheeler against the rear portion of the bus. However, a perusal of Ex.P7/MVI Report reveals that the right side of the bus, from the front to the rear centre portion, had sustained dents. During his cross-examination, R.W1 categorically admitted that the accident had occurred at a turning on the road. It is relevant to note that the mere registration of an FIR against the claimant, based on the complaint lodged by the bus driver, would not, by itself, establish that the accident occurred solely due to the negligence of the claimant or rule out negligence on the part of the bus driver. It is also relevant to note that in support of the testimony of R.W.1, the appellant has not chosen to examine any independent witness or any passenger who travelled in the bus at the time of accident. On the other hand, the manner in which the accident had occurred and the negligence on the part of the bus driver have been clearly spoken to by P.W.1 and P.W2. Nothing material has been elicited during their cross-examination to discredit their testimony.

15. In the above circumstances, considering the evidence of P.W1, P.W.2 and RW1, particularly the admission of R.W.1 that the accident had occurred at a turning on the road, this Court finds no reason to interfere with the finding of

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the Tribunal that the accident had occurred due to the rash and negligent driving of the bus driver.

16. In the present case, the claimant had sustained locomotor disability wrt. right upper and lower limbs and the Medical Board had assessed his permanent locomotor disability at 61%. The claimant was working as a driver at the time of accident. In these circumstances, the question arises for consideration whether the nature and extent of the permanent disability suffered by the claimant have resulted in functional disability affecting his earning capacity, thereby warranting the adoption of the multiplier method.

17. At this juncture, it is relevant to refer to the Judgment of the Hon'ble Supreme Court in the case of ***Raj Kumar v. Ajay Kumar [(2011) 1 SCC 343],*** wherein it has been held that the Tribunal must assess not merely the extent of permanent disability but also its actual impact on the claimant's earning capacity, which may differ from the medical percentage of disability. Such an assessment requires consideration of the claimant's avocation prior to the accident, the nature of functions performed by him, the extent to which those functions have been affected by the disability and whether he can continue to earn his livelihood despite the disability. The Hon'ble Supreme Court has emphasised that permanent disability and loss of earning capacity are distinct concepts, except in cases where the evidence establishes that they coincide .

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18. Applying the ratio laid down in the above Judgment to the facts of the present case, this Court is of the view that the claimant was employed as a driver at the time of accident. The nature of his employment necessarily involves prolonged standing, walking, movement, physical alertness and the effective use of his limbs. Therefore, the permanent locomotor disability affecting his right upper and lower limbs would have a direct bearing on his ability to perform his occupational duties.

19. A perusal of Ex.P2- Accident Register issued by the Government Headquarters Hospital, Kallakurichi, reveals that the claimant was admitted on 26.07.2015. A perusal of Ex.P3 – Discharge summary issued by the JIPMER Hospital, Puducherry shows that the claimant had undergone treatment from 27.07.2015 to 30.07.2015, during which, he had undergone surgery. A further perusal of Ex. P4, the discharge summary issued by Rajiv Gandhi Government Hospital, reveals that the claimant had undergone inpatient treatment from 31.07.2015 to 05.08.2015 for six days. Further, Ex.P5 reveals that the claimant had undergone inpatient treatment at Sri Manakula Vinayagar Medical College and Hospital, Puducherry, from 18.08.2015 to 24.08.2015. The claimant had also appeared before the Medical Board, which assessed his permanent locomotor disability affecting his right upper and lower limb at 61 %

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20. The above medical records and discharge summaries establish that the claimant had sustained serious injuries, undergone multiple surgical interventions and required prolonged treatment. The assessment of 61% permanent locomotor disability by the Medical Board further establishes the extent of the physical impairment suffered by him.

21. Having regard to the nature of injuries sustained by the claimant, the nature of his avocation and the functional requirements of his employment, this Court is of the view that the permanent disability has a direct bearing on his earning capacity. This is not a case where the permanent physical disability can be treated as having no impact on the claimant's future earning capacity. In the circumstances, this Court finds that the permanent locomotor disability suffered by the claimant has resulted in functional disability affecting his earning capacity. Applying the ratio laid down by the Hon'ble Supreme Court in ***Raj Kumar's case*** *(cited supra)*, this Court is of the considered view that, where permanent functional disability directly affects the earning capacity of the victim, compensation has to be assessed by adopting the multiplier method so as to reflect the actual economic loss suffered by him. Therefore, the Tribunal had reasonably assessed his monthly income at Rs.8,400/- by treating him as a labourer. Considering the nature of injuries, the extent of disability and the resulting impact on his ability to perform his day-to-day avocation, the Tribunal had rightly adopted the multiplier method and awarded a sum of Rs.9,83,808/-

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under the head of permanent disability/loss of earning capacity. The compensation awarded under the other heads, having regard to the nature of the injuries and the period of inpatient treatment, was also reasonable and does not warrant any interference. The compensation awarded by the Tribunal under the other heads, appears to be just and reasonable.

22. In view of the foregoing discussion, this Court finds no merit in the appeal. Accordingly, the Civil Miscellaneous Appeal is dismissed confirming the award 30.09.2021 passed in MCOP No.335 of 2015 by the Motor Accident Claims Tribunal/Additional Subordinate Court, Kallakurichi. 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,
Additional Subordinate Court, Kallakurichi.

M.JOTHIRAMAN, J.

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