



C.M.A(MD) Nos.653 of 2018 and 381 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 03.03.2026

CORAM:

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
and
THE HONOURABLE MR.JUSTICE P.DHANABAL**

C.M.A(MD) Nos.653 of 2018 and 381 of 2024
and
CMP(MD) No.5099 of 2024

C.M.A(MD) Nos.653 of 2018

Buela

... Appellant

-vs-

1. The Managing Director
Tamil Nadu State Express Transport
Corporation Limited,
Pallavan Salai, Chennai- 600 002

2. M/s.Patel Engineering Ltd.,
Propreitor of Tipper Lorry bearing
Regn.No.AP 09 x 0629
Nambi Nagar, Nanguneri,
Tirunelveli District

3. The Regional Manager
ICICI Lambord General Insurance
Company Limited
No.140, Numgambakkam High Road
Chennai- 600 034

...Respondent



C.M.A(MD) Nos.653 of 2018 and 381 of 2024

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the award and decree dated 16.11.2017 passed in MCOP No.418 of 2007 on the file of the Motor Accident Claims Tribunal, Principal Sub Judge, Nagercoil and enhance the compensation.

For Appellant : Mrs.K.R.Shiva shankari
for Mrs. J.Anandhavalli

For R1 : Mr.P.Prabhakaran
For R2 : Batta due
For R3 : Mr.V.Muthu Kamatchi

C.M.A(MD) Nos.381 of 2024

The Managing Director
Tamil Nadu State Transport Corporation Limited,
Pallavan Salai, Chennai- 600 002 ... Appellant

-VS-

1. Beula

2. M/s.Patel Engineering Ltd.,
Nambi Nagar, Nanguneri,
Tirunelveli District

3. The Regional Manager
ICICI Lombard General Insurance
Company Limited
No.140, Numgambakkam High Road
Chennai- 600 034 ...Respondent



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For Appellant : Mr.P.Prabhakaran
For R-1 : Mrs.K.R.Shiva shankari
for Mrs. J.Anandhavalli
For R1& R3 : Left

COMMON JUDGMENT

P.DHANABAL,J.

These Civil Miscellaneous Appeal have been filed as against the award passed by the Motor Accident Claims Tribunal, Principal Sub Court, Nagercoil MCOP No.418 of 2007 dated 16.11.2017.

2. The claimant is the appellant in CMA(MD) No.653 of 2018 and the first respondent in CMA(MD) No.381 of 2024. The first respondent in C.M.A.(MD)No.653 of 2018 is the appellant in CMA(MD)No.381 of 2024 and the respondents 2 and 3 in CMA(MD) No.653 of 2018 are the respondent in CMA(MD) No.381 of 2024.



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3. For the sake of convenience and brevity, the appellant in CMA(MD) No.653 of 2018 hereinafter referred to as claimant/appellant and the appellant in CMA(MD) No.381 of 2024 hereinafter referred to as first respondent/Transport Corporation.

4. Before the Tribunal, the claimant has filed a claim petition alleging that on 05.12.2006 at about 12.05 a.m., when she was travelling in the Government bus bearing Reg.No.TN 01 6357 while the bus was crossing Panankulam bus stop, the bus dashed against the lorry which came in the opposite direction and caused the accident. Due to the accident, the claimant sustained injuries all over her body. She was immediately taken to the Sakthi Hospital, Tirunelveli on 06.12.2006 and thereafter, admitted as inpatient at Krishna Hospital, Palayamkottai from 06.12.2006 to 10.12.2006.. Thereafter, from 10.12.206 to 30.12.2006, she has taken treatment at Meenakshi Mission Hospital, Madurai and thereafter, he took treatment at Karthik Hospital, Thanjavur from 30.12.2006. The accident took place due to negligence on the part of the



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bus driver. For abundant caution, the insurer of the lorry is impleaded as party and therefore the respondents are liable to pay the compensation to the appellant/claimant.

5. The first respondent / Managing Director of Transport Corporation had filed counter by denying the negligence on the part of the driver of the bus and also they denied the age, income of the petitioner and also the manner of accident. The accident took place due to the negligence on the part of the lorry driver and therefore, the first respondent bus driver is no way responsible for the accident and they are not liable to pay any compensation to the petitioner.

6. The third respondent filed counter denying the averments made in the petition and also denied the negligence on the part of the driver of the lorry. According to the third respondent, the accident had happened due to the negligence on the part of the driver of the bus and the respondents 2 and 3 are unnecessary parties to the petition and therefore, the petition is liable to be dismissed.



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7. Based on the above said pleadings, the Tribunal framed the following points for determination?

- a) *On whose negligence, the accident dated 05.12.2006 had taken place?*
- b) *What is the quantum of compensation to be awarded to the petitioner?*
- c) *Who has to pay the compensation to the petitioner?*

8. Before the Tribunal, on the side of the petitioner, P.W.1 to P.W.3 were examined and Ex.P.1 to 9 were marked and on the side of the respondents, no oral and documentary evidence has been adduced.

9. Based on the evidence adduced on both sides, the Tribunal fixed the negligence on the part of the driver of the first respondent bus and awarded a sum of Rs.50,000/- towards permanent disability and also awarded a sum of Rs.7,46,564/- as total compensation with interest at 7.5% per annum from the date of petition till the realization of the amount.



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10. Aggrieved by the said order, the claimant has preferred appeal for enhancement of compensation in CMA (MD) No. 653 of 2018 and the first respondent Transport Corporation has preferred appeal in CMA(MD) No.381 of 2024 challenging the negligence and quantum of compensation amount.

11. The learned counsel appearing for the claimant/appellant would submit that the claimant sustained grievous injuries on his head and all over the body. Due to the head injury, he sustained 50% permanent disability and in order to prove the disability, the claimant has examined P.W.2 and P.W.3 who are the doctors gave treatment to the victim and they categorically deposed about the injuries sustained by the claimant and also the disability and also they issued certificates Exs.P7 and P8. Therefore the claimants proved the disability of 50% but the trial Court only awarded Rs.50,000/- for the permanent disability that is too low. But the Tribunal instead of adopting multiplier method only awarded a sum of Rs.50,000/-. So far as negligence is concerned, the claimant/appellant has examined P.W.1 and he deposed about the negligence on the part of the driver of the bus.



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11.1. Per contra, the respondent has not examined any witnesses to rebut the evidence on the side of the claimant/appellant. In the absence of rebuttal evidence, the Tribunal ought to have accepted the evidence on the side of the petitioner and awarded fair compensation and therefore, the petitioner is entitled for enhanced compensation.

12. The learned counsel appearing for the first respondent in CMA(MD) No.653 of 2018 and the appellant in CMA(MD) No.381 of 2024 would submit that in this accident, two vehicles involved and both the vehicles dashed against each other. The Tribunal failed to consider the negligence on the part of the driver of the lorry. The driver of the bus drove the vehicle in a careful manner, but the lorry which came in the opposite direction was driven in a rash and negligent manner and dashed against the bus and thereby, the Tribunal ought to have fixed the liability on the part of the lorry instead fixed the liability on the driver of the bus. Further, the Tribunal accepted the medical bills in its entirety without any authenticity and thereby, awarded compensation on the higher side. The Tribunal ought to have awarded compensation by fixing negligence on the part of the driver of the bus and thereby,



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CMA(MD) No.653 of 2018 has to be dismissed and CMA(MD) No.381 of 2024 has to be allowed

13. This Court has heard both sides and perused the materials available on record.

14. Upon perusing the pleadings and records and upon hearing both sides, the points for determination in this appeal are:

a) Whether the accident took place due to negligence on the part of the driver of the bus or driver of the lorry?

b) Whether the Tribunal awarded fair compensation?

15. In this case, there is no dispute in respect of involvement of vehicles in the accident. According to the claimant, the accident took place due to negligence on the part of the driver of the bus. According to the first respondent, the accident took place due to the negligence on the part of the driver of the lorry. Since the claimant filed the claim petition he has to prove the negligence. In order to prove the negligence, the claimant examined himself as P.W.1 and also marked Exs.P.1 to P4.



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16. A careful perusal of the above said evidence reveals that the accident took place due to negligence on the part of the driver of the bus. The First Information Report was also registered as against the driver of the bus and therefore, the claimant proved the negligence on the part of the driver of the bus. In order to rebut the same, no contra evidence was adduced by the first respondent/Corporation. The first respondent failed to examine either the driver of the bus or the passengers travelled in the bus in order to prove the negligence on the part of the lorry and therefore, this Court is of the opinion that the in the absence of contra evidence, the evidence on adduced on the side of the claimant/appellant is reliable and acceptable. Therefore, the claimant proved the negligence on the part of the driver of the bus. The Tribunal also after analysing the evidence came to a fair conclusion and fixed the negligence on the part of the bus driver.

17. So far as quantum is concerned, according to the claimant, he sustained injuries and thereby he was permanently disabled and his disability is 50%. He sustained fracture injuries. In order to prove the



disability, P.W.2 and P.W.3 were examined. According to the evidence

of P.W.2 and P.W.3, the permanent disability is 50% and based on the evidence, the Tribunal awarded a sum of Rs. 50,000/- without any reason as to how arrived at Rs.50,000/- of the amount. Therefore, the above said amount awarded by the Tribunal is liable to be set aside. Considering the nature of injuries and the disability, this Court is inclined to award a sum of Rs.4,000/- for 1% of disability. Though the claimant/appellant proved that he sustained 50% disability that is not functional disability and thereby it is not proper to adopt multiplier method and thereby, this Court awards a sum of Rs.4,000/- for 1% disability and thereby, the claimant/appellant is entitled for a sum of Rs.2,00,000/- towards permanent disability. The Tribunal awarded a sum of Rs.6,21,564/- towards medical expenses and the respondents have no objection for the above said medical bills and therefore, the award amount awarded by the Tribunal in respect of the medical expenditure is confirmed.

18. So far as transport expenses are concerned, the Tribunal awarded a sum of Rs.5,000/-. Considering the cost of living and the



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injuries sustained by the claimant, this Court is inclined to enhance the transport expenses to Rs.20,000/-. It is admitted fact that the claimant/appellant was admitted as inpatient in the hospital and he was taking treatment for a long time and the Tribunal awarded a sum of Rs. 10,000/- as extra nourishment and the same is not sufficient and thereby, the same is enhanced to Rs.30,000/-. The Tribunal awarded Rs. 50,000/- for the pain and sufferings. Since the claimant/appellant sustained grievous injuries all over his body and also 50% disability, this amount awarded by the Tribunal is low and hence, this Court is inclined to award a sum of Rs.1,00,000/- for pain and sufferings. The Tribunal awarded a sum of Rs.10,000/- towards medical assistant and the same is also low and this Court considering the cost of living and other circumstances, is inclined to enhance the same to Rs.25,000/- and the total compensation comes to Rs.9,96,564/- Rounded off to Rs. 10,00,000/-.

19. In view of the above discussions, the appeal filed by the Transport Corporation in CMAMD) No.381 of 2024 stands dismissed and the appeal filed by the claimant in CMA(MD) No.653 of 2018 stands



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partly allowed. The award passed by the Tribunal in MCOP No. 418 of 2007 is enhanced to Rs.10,00,000/- with interest @ 7.5% per annum from the date of petition till realization of the amount

20. The appellant in CMA(MD) No.381 of 2024 and the first respondent in CMA(MD) No.653 of 2018 is directed to deposit the above said amount before the Tribunal within a period of two months from the date of receipt of a copy of this judgment. On such deposit is being made, the petitioner is at liberty to withdraw the same on filing proper application. Consequently connected miscellaneous petition stands closed.

[N.A.V.,J] [P.D.B.,J]
03.03.2026

Internet : Yes / No

Index : Yes / No

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To

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1. The Motor Accident Claims Tribunal,
Principal Sub Judge, Nagercoil
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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**N. ANAND VENKATESH, J.
and
P.DHANABAL, J.**

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