

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2015

CORAM

THE HON'BLE MR.JUSTICE C.S.KARNAN

C.M.A.No.183 of 2012

S.Chandra Sekaran

..Appellant/Petitioner

Vs

Tamil Nadu State Transport Corporation
(Villupuram-Division-I) Ltd.,
Rep. by its Managing Director,
No.3/137, Salamedu, Valudhareddy Post,
Villupuram - 605 602.

..Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the order and Decree made in M.C.O.P.4665 of 2008 dated 11.03.2011 on the file of the Motor Accidents Claims Tribunal, The Additional District Court, Fast Track Court No.1, Chennai.

For Appellant : Mr.Um.Ravichandran

For Respondent : Mr.S.V.Vasanthakumar

JUDGMENT

On 13.10.2008, at about 8.50 p.m., when the claimant was riding his motorcycle on the G.S.T. Road, near Asargana bus stop, the bus bearing Registration No.TN-32-N-3071, coming in the opposite direction at a high speed, dashed against the motorcycle and caused the accident. Hence, the claimant has levelled a claim against the Transport Corporation and claimed a sum of Rs.6,00,000/-.

2.The respondent Corporation had filed a counter and resisted the claim petition, the respondent submits that the claimant had driven his motorcycle in a rash and negligent manner and dashed against the bus. The contentions regarding age, income, nature of injuries and mode of treatment was denied.

3.The Tribunal, had framed two issues, on the side of the claimant two witnesses were examined and 16 documents were marked. On the side of the respondent, one witness was examined and no document was marked. After recording evidence of both sides and after perusing the exhibits marked by the claimant, the Tribunal had awarded a sum of Rs.2,42,240/- as compensation with interest at the rate of 7.5% per annum. Not being satisfied with the quantum of compensation, the claimant has filed the above appeal for additional compensation.

4.The highly competent counsel Mr.UM.Ravichandran appearing for the claimant submits that the claimant had sustained multiple bone fracture injuries besides sustaining injuries all over his body. He had undergone medical treatment at Balaji Hospital as inpatient. Besides, he also underwent treatment at Government Hospital, Chennai. The claimant's right forearm bones were fractured and internal fixation was conducted. The Doctor had assessed the disability of 60%. The claimant's nervous system has also been affected. The claimant had spent a sum of Rs.1,00,000/- towards medical expenses but the Tribunal had not granted an adequate compensation to the claimant under the relevant heads. Hence, the learned counsel entreats the Court to grant additional compensation.

5.The learned counsel Mr.S.V.Vasanthakumar appearing for the Transport Corporation submits that the claimant had ridden his motorcycle in a negligent manner and dashed it against the bus and caused the accident. However, the Tribunal had granted an adequate compensation under the relevant heads.

6.On considering the facts and circumstances of the case and arguments advanced by the learned counsels on either side, this Court is of the view that the medical practitioner had certified that the claimant had sustained 60% disability, considering the nature of bone fracture injuries and head injuries. Besides the claimant had spent a sum of Rs.92,240/- towards medical expenses and the claimant is a service engineer aged about 37 years. Hence, this Court grants compensation as follows:-

Rs.1,20,000/- is awarded towards disability; Rs.92,240/- towards medical expenses; Rs.40,000/- towards pain and suffering; Rs.10,000/- towards attender charges; Rs.10,000/- towards nutrition; Rs.10,000/- towards transport; Rs.40,000/- towards loss of earning during medical treatment period; Rs.70,000/- towards loss of amenities, since the claimant had

sustained 60% disability and also had sustained head injuries. In total, this Court awards Rs.3,92,240/-. After subtracting initial compensation of a sum of Rs.2,42,240/-, this Court awards Rs.1,50,000/- as additional compensation. This amount will carry interest at the rate of 7.5% per annum from the date of filing the claim petition till date of payment of compensation. This Court further directs the respondent herein to deposit the said amount, within a period of eight weeks from the date of receipt of a copy of this order.

7.After such deposit being made, it is open to the claimant to withdraw the deposited compensation amount, with accrued interest thereon, after filing a memo along with a copy of this order before the trial Court.

8.In the result, the above appeal is partly allowed. Consequently, the Judgment and Decree passed in M.C.O.P.No.4665 of 2008, on the file of the Motor Accident Claims Tribunal, The Additional District Court, Fast Track Court No.1, Chennai, dated 11.03.2011, is modified. No costs.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

1. The Motor Accident Claims Tribunal,
The Additional District Court, (Fast Track Court No.1),
Chennai.

2. The Section Officer,
VR Section, High Court, Madras.

+ 1cc to Mr.S.V.Vasanthakumar,Advocate(sr.46435)
+ 1cc to Mr.U.M.Ravichandran,Advocate(sr.46636)

C.M.A.No.183 of 2012

Pa(co)
cp 26/10/2015