

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2015

C O R A M

THE HONOURABLE Mr.JUSTICE B.RAJENDRAN

C.M.A. No. 2109 of 2006

Vadivel

Appellant/Claimant

Vs

The Managing Director
Tamil Nadu State Transport Corporation Ltd.,
Vellore.

Respondent/Respondent

Prayer:- Appeal filed under Section 173 of Motor Vehicles Act against the decree and judgment and decree dated 18.07.2005 made in MACTOP.No.786 of 2000 on the file of the Motor Accidents Claims Tribunal (Additional District Judge), Kancheepuram.

For Appellant : Mr.N.Veerasley

For Respondent : Mr. S.V.Vasanthakumar

J U D G M E N T

The claimant is the appellant. He moved the Motor Accident Claims Tribunal (Additional District Judge), Kancheepuram, in M.C.O.P.No.786 of 2000 claiming a compensation in a sum of Rs.3,00,000/- for the grievous injury sustained by him in a accident involving the bus of the State Transport Corporation. The Tribunal awarded a sum of Rs.49,000/-, which is under challenge in this appeal seeking enhancement of the compensation.

2. At the outset, both sides did not dispute the accident and they restricted their arguments only with regard to the quantum awarded.

3. Learned counsel appearing for the appellant would submit that even though the claimant has suffered multiple grievous injuries and the Doctor P.W.2 has given the medical certificate assessing the partial permanent disability at 25%, the Court below did not taken into consideration the same and fixed the disability at 20% and awarded only a sum of Rs.20,000/- towards the same. He would further submit that the appellant is a

Coolie by profession and due to the accident, he could not continue his profession as he would not be able to do the work as before. Further, the learned counsel for the appellant would submit that the appellant has taken treatment as out patient even after he was discharged from the hospital for several days. Though the claimant had claimed a sum of Rs.3,00,000/- as compensation, the Tribunal has awarded only a sum of Rs.49,000/- and hence, he would pray for enhancement of the same.

4. Learned counsel appearing for the respondent/Transport Corporation would submit that the Court below after taking into consideration the entire medical records and also the documents produced on the side of the claimant, fixed the permanent disability at 20% and awarded a sum of Rs.20,000/-, warranting no interference in this appeal.

5. Heard both sides and perused the records.

6. On a careful perusal of the judgment passed by the Court below, it is seen that the court below had awarded a total compensation of Rs.49,000/- under the following heads:

1. Permanent disability - Rs.20,000/-
2. Pain and suffering - Rs.25,000/-
3. Extra Nourishment - Rs. 4,000/-

Though the Court below has held that the claimant/appellant has suffered multiple fractures and has also stated that he could not do any work as before, because he suffered a fracture of medical wall of orbit and there were every chance of blindness in future, it should not have reduced the disability to 20% from 25% which is a partial permanent disability fixed by the Doctor. It is also seen that the appellant/claimant is a Coolie by profession and he may not be in a position to continue his profession. Accordingly, the Court below should have taken into consideration the same and should have fixed the disability at 25%. Hence, considering the nature of injury sustained by the appellant/claimant, I would like to fix the permanent disability at 25% and enhance the compensation from Rs.20,000/- as awarded by the Court below to Rs.25,000/- and since the petitioner was in hospital for 196 days, I am inclined to increase the extra nourishment from Rs.4,000/- to Rs.10,000/- and since the petitioner had also taken treatment as out patient after he was discharged from the hospital, I am inclined to award a sum of Rs.5,000/- towards mental agony, which would be reasonable.

7. In the result, the judgment passed by the Court below is modified only to the extent of payment of Rs.79,000/- which is rounded off to Rs.80,000/- to the appellant/claimant as compensation. The interest awarded by the Tribunal is hereby confirmed.

8. Accordingly, the respondent/State Transport Corporation is directed to deposit the compensation if not already deposited as per the order of the Tribunal, along with enhanced compensation as fixed by this Court i.e., a sum of Rs.80,000/- [Rupees eighty thousand only] to the credit of MCOP No.786 of 2000 on the file of the Motor Accident Claims Tribunal (Additional District Judge), Kancheepuram within a period of six weeks, from the date of receipt of a copy of this order along with an interest at the rate of 7.5% from the date of petition less the amount deposited already, if any. It is needless to state that on such deposit being made, the appellant/claimant is entitled to withdraw the entire compensation amount along with interest on making out appropriate application before the court below.

9. With the above modification, this Civil Miscellaneous Appeal is allowed. No costs.
smi

s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To

The Motor Accidents Claims Tribunal,
(Additional District Judge), Kancheepuram

+1 cc to Mr.N.Veerasamy, Advocate SR 56921

+ 1 cc to Mr.S.V.Vasnathakumar, Advocate SR 57185

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