

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2016

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THE HON'BLE MR.JUSTICE G.CHOCKALINGAM

C.M.A.No.1721 of 2011

A.Veerappan

... Appellant /Petitioner

... Vs ...

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Kancheepuram. ... Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988, against the award and decree made in M.C.O.P.No.258 of 2006, dated 10.09.2007 on the file of the Chief Judicial Magistrate Court, Tiruvallur / Motor Accidents Claims Tribunal, Tiruvallur.

For Appellant : Mr.Anand and Suryas
For Respondent : Mr.S.Sairaman

JUDGMENT

This civil miscellaneous appeal is directed against the judgment and decree dated 10.09.2007 made in M.C.O.P.No.258 of 2006, on the file of the Chief Judicial Magistrate Court, Motor Accidents Claims Tribunal, Tiruvallur.

2. The appellant as a claimant has filed a claim petition in M.C.O.P.No.258 of 2006 before the learned Chief Judicial Magistrate, Motor Accidents Claims Tribunal, Tiruvallur, for the injuries sustained by him against the respondent. The Tribunal, after considering the evidence and after hearing the arguments of both sides, awarded a sum of Rs.72,600/- towards damages to the appellant. Aggrieved against the said award passed by the Tribunal, the present appeal is preferred by the appellant seeking enhancement of the claim.

3. The learned counsel appearing for the appellant/claimant would mainly contend that P.W.2-Doctor has assessed the disability suffered by the claimant at 50%, but the Tribunal, without considering the said fact, awarded only a meager sum of

Rs.45,000/- towards disability. It is contended that the disability has to be calculated according to the multiplier method and hence, the Tribunal is erred in awarding a sum of Rs.45,000/- towards disability. The learned counsel for the appellant further contended that the Tribunal has awarded a meager sum of Rs.20,000/- towards pain and sufferings, a sum of Rs.600/- towards medical expenses, a sum of Rs.3,000/- towards Transport to hospital and a sum of Rs.4,000/- towards extra nourishment. Hence, the award amount has to be enhanced as claimed in the petition.

4. The learned counsel appearing for the respondent-Transport Corporation would contend that the Tribunal, after appreciating the evidence adduced on either side and after considering the evidence adduced by the Doctor, who has given the disability certificate, correctly awarded damages and hence, there is no illegality or infirmity or perversity in the order passed by the Tribunal and hence, the order of the Tribunal has to be confirmed and the civil miscellaneous appeal has to be dismissed.

5. This Court has considered the submissions made by the learned counsel on either side and perused the records.

6. On a perusal of the records, it is seen that the Tribunal has awarded damages under the following heads:-

Permanent disability (45%)	-	Rs.45,000/-
Pain and sufferings	-	Rs.20,000/-
Medical expenses	-	Rs. 600/-
Transport to hospital	-	Rs. 3,000/-
Extra nourishment	-	Rs. 4,000/-

Rs.72,600/-

7. In this case, P.W.2-Doctor has assessed the disability at 50% and given the disability certificate-Ex.P.8. The Doctor-P.W.2, in his evidence, had deposed that he examined the claimant and assessed the disability at 50%. The Tribunal, without considering the above fact, reduced the disability from 50% to 45%. Considering the evidence of the Doctor and the wound certificate, this Court is of the considered view that the argument of the learned counsel for the appellant that the disability has to be calculated according to the multiplier method is not at all acceptable. This Court is of the considered view that for the 50% of the disability, it would be appropriate to award a sum of Rs.50,000/- towards disability. Hence, the compensation awarded by the Tribunal under the head of disability has to be enhanced to Rs.50,000/- from

Rs.45,000/-. Further, the Tribunal, under the head of pain and sufferings, awarded a sum of Rs.20,000/- to the claimant. Considering the evidence of the Doctor and also the fact that the claimant has suffered so many injuries and he has taken treatment for the above injuries, this Court is of the considered view that the amount awarded under the head of pain and sufferings has to be enhanced to Rs.25,000/- from Rs.20,000/-. Further, the petitioner has not produced any documents for enhancement of the claim for transport to hospital. Hence, the argument of the learned counsel for the appellant that the amount awarded under the head of transport to hospital has to be enhanced is not acceptable. The Tribunal, after considering the evidence, appropriately awarded compensation under the other heads which are confirmed.

8. Considering the facts and circumstances of the case, the amount awarded by the Tribunal under the head of disability is enhanced to Rs.50,000/- from Rs.45,000/- and further, the amount awarded by the Tribunal under the head of pain and sufferings is enhanced to Rs.25,000/- from Rs.20,000/-. Accordingly, the compensation payable would be as follows:-

For permanent disability	-	Rs.50,000/-
Pain and sufferings	-	Rs.25,000/-
Medical expenses	-	Rs. 600/-
Transport to hospital	-	Rs. 3,000/-
Extra nourishment	-	Rs. 4,000/-
		Rs.82,600/-

9. In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal is enhanced to Rs.82,600/- from Rs.72,600/-. The respondent-Transport Corporation is directed to deposit the modified award amount of Rs.82,600/- with interest at 7.5% per annum, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. The appellant/claimant is entitled to withdraw the amount deposited on due application. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Jrl

To

The Chief Judicial Magistrate,
Motor Accidents Claims Tribunal,
Tiruvallur.

+lcc to M/S.Anand and Suryas, Advocate Sr.64311

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