

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2016

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.517 of 2011

J.Karthikeyan

... Appellant/Petitioner

vs.

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan Salai, Chennai 600 002. ... Respondent/Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 04.01.2010 made in M.C.O.P.No.4133 of 2006 on the file of the Motor Accidents Claims Tribunal, III Judge, Court of Small Causes, Madras.

For Appellant : Mr.S.Gangaram Prasad

For Respondent : Mr.V.Kasi Viswanathan

J U D G M E N T

Seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, III Judge, Court of Small Causes, Madras vide its judgment and decree dated 04.01.2010 in M.C.O.P.No.4133 of 2006, the aggrieved claimant has come up with this appeal.

2. For the grievous injuries sustained in an accident that occurred on 27.07.2006, the claimant, aged 20 years, said to have been working as a Pooja Articles Vendor approached the Tribunal seeking a sum of Rs.20,00,000/- as compensation. The Tribunal, on consideration of the oral and documentary evidence, awarded a sum of Rs.4,68,600/- as compensation to the claimant, under the following heads:

Heads	Compensation awarded by the Tribunal
Loss of earnings	Rs. 27,000/-
Transportation to Hospital	Rs. 6,000/-

Heads	Compensation awarded by the Tribunal
Extra Nourishment	Rs. 5,000/-
Damages to Clothing and Articles	Rs. 2,000/-
Medical expenses	Rs.2,28,600/-
Future medical expenses	Rs. 35,000/-
Mental agony	Rs. 5,000/-
Loss of amenities	Rs. 5,000/-
Loss of matrimonial prospects	Rs. 10,000/-
Loss of expectation of life	Rs. 5,000/-
Attender charges	Rs. 15,000/-
Additional Transportation to Hospital	Rs. 5,000/-
Pain and Suffering	Rs. 20,000/-
Permanent Disability	Rs.1,00,000/-
Total	Rs.4,68,600/-

3. Heard the learned counsel on either side and perused the material documents available on record.

4. Learned counsel for the appellant/claimant submitted that the Tribunal has not adopted multiplier method while computing compensation. He contended that the claimant's future prospects have been affected and that the compensation awarded towards "loss of marital prospects", "expectation of life", "transportation" and "extra nourishment" are on the lower side.

5. Learned counsel appearing for the respondent/Transport Corporation has not disputed the factum of accident. But, he contended that the award of the Tribunal is excessive and that it does not require any further enhancement.

6. A perusal of the records goes to show that the claimant sustained Grade III Compound fracture in the right leg due to the alleged accident and he had been treated as an inpatient in various Hospitals for more than 200 days. Considering the injuries sustained by the claimant, the Tribunal fixed his disability at 50%. At the time of accident, the claimant was aged 20 years as could be seen from Ex.P14 - Driving Licence. According to the injured claimant, he has been selling Pooja Articles in front of Vadivudaiamman Temple and

earning a sum of Rs.6,000/- per month. In the absence of any documentary proof in support of his avocation, the Tribunal fixed a sum of Rs.4,500/- as his monthly income.

7. Considering the nature of injuries sustained by the claimant and also his age at the time of accident, this Court feels it appropriate to enhance the award of the Tribunal. In view of the same, this Court fixes the monthly income of the claimant at Rs.4,500/- and applying the multiplier of '18', awards a sum of Rs.4,86,000/- (Rs.4,500/- x 12 x 18 x 50%) as compensation towards "loss of dependency". Further, this Court finds that the compensation under other heads are on the lower side and they are enhanced as tabulated below:

Heads	Compensation awarded by the Tribunal	Compensation awarded by this Court
Loss of earning during treatment	Rs. 27,000/-	Rs. 54,000/-
Transportation to Hospital	Rs. 6,000/-	Rs. 6,000/-
Extra Nourishment	Rs. 5,000/-	Rs. 10,000/-
Damages to Clothing and Articles	Rs. 2,000/-	Rs. 2,000/-
Medical expenses	Rs.2,28,600/-	Rs.2,28,600/-
Future medical expenses	Rs. 35,000/-	Rs. 35,000/-
Mental agony	Rs. 5,000/-	Rs. 5,000/-
Loss of amenities	Rs. 5,000/-	Rs. 5,000/-
Loss of matrimonial prospects	Rs. 10,000/-	Rs. 20,000/-
Loss of expectation of life	Rs. 5,000/-	Rs. 5,000/-
Attender charges	Rs. 15,000/-	Rs. 15,000/-
Additional Transportation to Hospital	Rs. 5,000/-	Rs. 5,000/-
Pain and Suffering	Rs. 20,000/-	Rs. 20,000/-
Permanent Disability	Rs.1,00,000/-	Rs.1,00,000/-
Loss of Dependency	-	Rs.4,86,000/-
Total	Rs.4,68,600/-	Rs.9,96,600/-

8. Thus, the award passed by the Tribunal is enhanced and the claimant is entitled to a sum of Rs.9,96,600/- (Rupees Nine Lakhs Ninety Six Thousand Six Hundred only) as compensation. The interest awarded by the Tribunal at the rate of 7.5% per

annum from the date of filing the claim petition till the date of deposit, is confirmed. It is needless to mention that if no amount is deposited by the Insurance Company, it shall deposit the entire award amount as ordered by this Court within a period of six (6) weeks from the date of receipt of a copy of this order. On such deposit, the appellant/claimant shall be paid the entire award amount along with accrued interest by means of a crossed Account Payee Cheque, favouring only him and it should not be issued in favour of any other person/Company.

The Civil Miscellaneous Appeal is allowed with the above directions. No costs.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To:

The Motor Accidents Claims Tribunal,
III Judge, Court of Small Causes, Madras.

1 cc to Mr.V.Kasiviswanathan, Advocate, sr.15305

1 cc to M/s.S.Ganagaram Prasad, Advocate, sr.15277

C.M.A.No.517 of 2011

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