

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.3548 of 2010

M.Mohamed Ibrahim

... Appellant

vs.

Metropolitan Transport Corporation Limited
(Chennai Div-I) rep. By its Managing Director,
Pallavan Salai,
Chennai - 2.

... Respondent

Civil Miscellaneous Appeal filed under Section 173
Motor Vehicles Act, 1988 against the Judgment and decree dated
11.3.2008 in MCOP No.4406 of 2003 passed by the Motor Accident
Claims Tribunal, (IV Small Causes Court), Chennai.

For Appellant : Mr.UM.Ravichandran

For respondent : Mr.K.S.Suresh

JUDGMENT

This Appeal is directed against the impugned Award
dated 11.3.2008 in MCOP No.4406 of 2003 passed by the Motor
Accident Claims Tribunal (IV Small Causes Court), Chennai,
awarding a sum of Rs.82,500/- against the claim of Rs.3,00,000/-.

2. The learned counsel appearing for the
appellant/injured claimant would submit that the quantum of
compensation awarded is meagre as the injured has suffered
multiple injuries and his big toe has been amputated and has
taken treatment in a private hospital and thereafter in the
Government Hospital as inpatient. Adding further, the learned
counsel would submit that the Tribunal has awarded only a sum of
Rs.40,000/- for permanent disability of 40%, and the Tribunal
should have awarded a sum of Rs.1,20,000/- as compensation for
40% of permanent disability at the rate of Rs.3,000/- per
percentage of disability as fixed by this Court in several
cases. Therefore, he would submit that the award of compensation
has to be enhanced.

3. On the contrary, the learned counsel appearing for the respondent, defending the Award of the Tribunal, would submit that after taking into account the oral and documentary evidence adduced in the case, the Tribunal has rightly awarded the compensation, which does not warrant any interference by this Court.

4. Heard the learned counsel appearing for the parties and perused the materials available on record.

5. It is not in dispute that in the accident that occurred on 21.2.2002 at about 20.30 hours, while the appellant was travelling as a passenger in MTC Bus bearing Regn.No.TN-01-N-2982 from North to South at ECR Road, near Meeran Nagar, Kovalam, the driver of the same bus, who drove the same in a rash and negligent manner, dashed against a parked road roller and thereby, caused grievous injuries to the appellant and his big toe was amputated. The Doctor who examined the appellant was examined as PW.3 before the Tribunal and he has deposed that the appellant has suffered 40% permanent disability. PW.3 Doctor also issued EX.P.12 Disability Certificate mentioning that the appellant has suffered 40% disability. There is no dispute with regard to that point.

6. It is to be noted that the Tribunal has awarded only a sum of Rs.40,000/- for permanent disability at the rate of Rs.1,000/- for each percentage of disability. Hence, this amount needs to be enhanced as per the judgment of this Court in the case of National Insurance Co.Ltd. rep.by its Branch Manager, Erode vs. G.Ramesh and another in CMA No.249 of 2013 dated 22.2.2013, wherein this Court has fixed a sum of Rs.3,000/- per percentage of permanent disability. Therefore, if 40% of permanent disability is multiplied with Rs.3,000, it comes to Rs.1,20,000/-. As already, this Court has awarded a sum of Rs.40,000/- at the rate of Rs.1,000/- per percentage of disability, a sum of Rs.80,000/- shall be added to Rs.40,000/- and thus, the amount of compensation for permanent disability is enhanced to Rs.1,20,000/- from Rs.40,000.

7. In the result, the award amount under the head of permanent disability alone is enhanced to Rs.1,20,000/- and the amounts awarded under the other heads shall stand confirmed. The enhanced award amount will also carry interest as ordered by the Tribunal in the Award. The impugned Award of the Tribunal is modified accordingly. The Appeal is partly allowed. No costs.

8. The respondent/Transport Corporation is directed to deposit the balance award amount within four weeks from the date of receipt of a copy of this order. On such deposit, the appellant is permitted to approach the Tribunal for withdrawal of the award amount.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

- 1.The Motor Accident Claims Tribunal/
(IV Small Causes Court),
Chennai.
- 2.The Managing Director,
The Metropolitan Transport Corporation Limited.,
(Chennai-Division-I),
Pallavan Salai,
Chennai-600 002.

Copy to:

The Section Officer,
VR Section Officer,
High Court, Madras-104.

+1cc to Mr.UM.Ravichandran, Advocate Sr.3060
+1cc to Mr.K.S.Suresh, Advocate Sr.3076

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srg 13/05/2016

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