

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.3549 of 2010

Thameem Ansari

.... 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.4407 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 Award dated
11.3.2008 in MCOP No.4407 of 2003 passed by the Motor Accident
Claims Tribunal (IV Small Causes Court), Chennai, awarding a sum
of Rs.29,150/- against the claim of Rs.2,00,000/-.

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 as a result, the appellant has suffered
25% permanent disability and the Tribunal has fixed only a sum
of Rs.5,000/- towards pain and suffering against the claim of
Rs.40,000/- and, a sum of Rs.10,000/- against the claim of
Rs.80,000, towards permanent disability of 25%. Therefore, on
these aspects, the impugned award has to be interfered with.

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 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, where 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 the appellant sustained head injury, deep cut injury on the Forehead, injuries on the left leg, stomach, face and fracture of right shoulder. He was given First Aid treatment at Santhi Hospital, Chennai, and on 21.2.2002, he was admitted in the Government Royapettah Hospital, Chennai, as inpatient. Thereafter, he took treatment in Santhi Hospital, Chennai from 2.3.2002 to 9.3.2002 as inpatient. It is to be noted that he has undergone 54 sutures all over his forehead.

6. Considering the injuries sustained by the appellant on his forehead, who was a college going student, aged about 19 years, this Court is unable to find any justification for fixing a sum of Rs.5,000/- towards pain and suffering by the Tribunal. Therefore, this Court has no hesitation in enhancing the award amount under the head of pain and suffering to Rs.50,000/-. As the appellant was already awarded a sum of Rs.5,000 under head Pain and Suffering, a sum of Rs.45,000/- is increased now.

7. As far as the other point, that only a sum of Rs.10,000/- towards permanent disability of 25% against the claim of Rs.80,000 was awarded is concerned, the Tribunal has found that CT Brain Scan had revealed normalcy as per medical record Ex.P.10, and therefore, the assessment seems to be on the higher side. In view of such finding, this Court is unable to interfere with that aspect.

8. In the result, the award amount under the head of pain and suffering alone is enhanced to Rs.50,000/- (Rupees fifty thousand only) 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.

9. The respondent/Transport Corporation is directed to deposit the balance award amount with interest at the rate of 7.5% from the date of numbering of the claim petition i.e.11.11.2003 till the date of deposit, 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,
Metropolitan Transport Corporation Limited,
(Chennai-Division-I),
Pallavan Salai,
Chennai-600 002.

Copy to

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

+1cc to Mr.UM.Ravichandran, Advocate sr.3059
+1cc to Mr.K.S.Suresh, Advocate sr.3075

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lrs[co]
srg 13/05/2016

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