

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2017

CORAM:

THE HONOURABLE MRS. JUSTICE. PUSHPA SATHYANARAYANA

CMA.No.474 of 2015

Poongavanam

..Appellant/Claimant

//vs//

1. Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Vellore.
2. Kandamsamy(R2 remained exparte
before the tribunal)
3. The Divisional Manager,
Reliance General Insurance Co. Ltd.,
2nd Floor,
Blamer Lawne House,
No.268, Annasalai, Chennai. ..Respondents/Respondents

This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 26.11.2010 made in M.A.C.T.O.P.No.73/2009 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Thiruvannamalai.

For Appellant : Mr.F.Terry Chella Raja

For 3rd Respondent : Mr.S.Sairaman

J U D G M E N T

Challenging the quantum of compensation awarded by the Chief Judicial Magistrate, Motor Accidents Claims Tribunal, Thiruvannamalai, in M.A.C.T.O.P.No.73 of 2009, dated 26.11.2010, the claimant has come forward with this Civil Miscellaneous Appeal for enhancement of compensation.

2. On 20.01.2008, at about 11.45 p.m., when the petitioner was travelling in a Bus belonging to the 1st respondent bearing Registration No.TN 23 N 1851, when the bus was nearing Nandambakkam L&T Company, the driver of the said vehicle drove

the bus in a rash and negligent manner and dashed against the Tipper Lorry bearing Registration No.SR 55 G 0729. Due to the said impact, the petitioner and others sustained grievous injuries all over her body and more specifically, the appellant sustained fractures on both of his legs apart from grievous injuries. Hence, the claimant filed a claim petition in M.C.T.O.P.No.73 of 2009, seeking compensation for a sum of Rs.5,00,000/-.

3. The Tribunal, on consideration of oral and documentary evidence, has awarded a sum of Rs.1,50,000/-, with interest @ 7.5% per annum from the date of petition till the date of deposit.

4. The break-up details of the same are as follows:

1. Permanent Disability	- Rs.	25,000
2. Partial loss of earnings	- Rs.	10,000
3. Transportation, Medical Expenses and Attendant Charges	- Rs.	95,000
4. Pain and Sufferings	- Rs.	20,000

Total award of compensation	Rs.	1,50,000

5. The learned Counsel for the appellant/claimant submitted that the claimant had taken treatment in several hospitals and sustained injuries like fracture of both bones right Tibia and fibula and also undergone IM nailing, but, no compensation has been awarded separately under the said head of Medical Expenses. He further submitted that when P.W.2 Doctor has assessed the permanent disability of the claimant as 30%, the Tribunal has fixed the disability as 25% and awarded only Rs.25,000/- under the said head which has to be enhanced. The learned Counsel also submitted that no amount has been awarded under the head of Extra Nourishment and loss of amenities etc.

6. The learned Counsel for the 3rd respondent Insurance Company submitted that the award of the tribunal is just and reasonable. Therefore, the present appeal has to be dismissed.

7. A perusal of the award would go to show that only a sum of Rs.10,000/ has been awarded under the head of loss of income. Since the claimant is working as a daily wager and earning a sum of Rs.250/- per day, his monthly income comes to Rs.5,000/- and his annual income comes to Rs.60,000/- and after deducting 15% disability, the loss of earning capacity comes to Rs.9,000/- and by adopting the multiplier 18, the loss of earning capacity per year comes to Rs.1,62,000/-. The amount awarded under the heads of Loss of Permanent Disability Rs.25,000/-, Pain and Sufferings

Rs.20,000/- and the loss of income at Rs.10,000/- are confirmed. However, under the head of Medical Expenses, a sum of Rs.73,000/- is awarded and For Transportation charges, a sum of Rs.5,000/- and for Attender Charges Rs.5,000/- is awarded separately instead of awarding Rs.95,000/- as a whole under the heads of transportation, attender charges, medical expenses, future medical expenses etc.

8. In fine, the amount of compensation awarded by the Tribunal is enhanced from Rs.1,50,000/- to Rs.3,00,000/-, as follows:

Loss of earning capacity	-	Rs.1,62,000
Medical Expenses	-	Rs. 73,000
Transport Expenses	-	Rs. 5,000
Attendant Charges	-	Rs. 5,000
Pain and Sufferings	-	Rs. 20,000
Loss of Income	-	Rs. 10,000
Permanent Disability at 25%	-	Rs. 25,000

Total	-	Rs. 3,00,000

9. In the result, this Civil Miscellaneous Appeal is partly allowed by enhancing the Compensation from Rs.1,50,000/- to Rs.3,00,000/- with interest @ 7.5% per annum from the date of petition till the date of deposit. The interest shall be waived for the delay period of 1037 days. The 1st respondent Transport Corporation is directed to deposit the same within a period of four weeks from the date of receipt of a copy of this Order and the appellant/claimant is permitted to withdraw the total award amount along with interest as stated above. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

tsi

To

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

Copy to: The Section Officer,

VR Section, High Court, Madras.

+ 1 cc to Mr.S. Sairaman, Advocate Sr.18576

+ 1 cc to Mr.M. Malar, Advocate SR.18264

CMA.No.474 of 2015

SSI(CO)

EU 02/05/2017