

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2017

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THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

C.M.A.Nos.431 and 2550 of 2016

and

C.M.P.No.18185 of 2016

C.M.A.No.431 of 2016

P. Nehru ... Appellant/Petitioner

Versus

The Managing Director,
Tamil Nadu State Transport Corporation,
Division I, Villupuram District. ... Respondent/Respondent

Appeal filed under Section 173 of Motor Vehicles Act 1988
against the order dated 05.12.2015 made in M.C.O.P. NO.41 of
2009 on the file of Motor Accident Claims Tribunal / Chief
Judicial Magistrate, Chengalpet.

For Appellant : Mr.A.N.Viswanatha Rao

For Respondent : Mr.S.Sairaman

C.M.A.No.2550 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation,
Division I, Villupuram District. ... Appellant/Respondent

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against the order dated 05.12.2015 made in M.C.O.P. NO.41 of
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For Appellant : Mr.S.Sairaman

For Respondent : Mr. A.N.Viswanatha Rao

C O M M O N J U D G M E N T

2. Challenging the negligence as well as the quantum of compensation awarded by the tribunal as excessive, the Insurance Company has come forward with the Civil Miscellaneous Appeal No.2550 of 2016.

3. The Claimant Mr.Nehru, aged 38 years, working as a technician in Micro Electrical and Controls, Alandur, earning a sum of Rs.10,000/- per month, met with an accident on 05.04.2008. Due to which he sustained multiple fractures and grievous injuries. Hence, he filed a Claim Petition in M.C.O.P.No.41 of 2009, on the file of Motor Accident Claims Tribunal, Chief Judicial Magistrate, Chengalpattu, seeking compensation for a sum of Rs.22,00,000/-. The Claims Tribunal, on consideration of oral and documentary evidence has awarded a sum of Rs.6,47,000/-. The break-up details of the same are as under:

Pain and Sufferings	-	Rs. 20,000/-
Transport and Nutrition	-	Rs. 15,000/-
Partial Permanent disablement	-	Rs.1,10,000/-
Medical expenses	-	Rs.4,60,000/-
Loss of income for six months (7000x6)	-	Rs. 42,000/-
		Rs.6,47,000/-

4. The learned counsel for the appellant in C.M.A.No.431 of 2016 and respondent in C.M.A.No.2550 of 2016 has submitted that the amount awarded by the Claims tribunal is very low and the same has to be enhanced. It is his further submission that though Ex.P13- Medical bills amounting to Rs.6,01,004/- have been marked, the tribunal has awarded only a sum of Rs.4,00,000/-which is very low. He has also further submitted that the claimant has undergone surgery for 6 times and therefore the amount awarded towards pain and suffering is very low.

5. The learned counsel for the appellant in C.M.A.No.2550 of 2016 and respondent in C.M.A.No.431 of 2016 has submitted that no police officer was examined to prove the negligence on the part of the driver. He has also submitted that the compensation awarded by the Tribunal, is highly excessive.

6. This Court has considered the submissions of either side and also perused the materials on record.

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7. So far as the partial permanent disability is concerned, the compensation awarded by the tribunal is confirmed.

8. A perusal of award would go to show that as per Ex.P13-Medical bills, the amount incurred by the claimant towards medical expenses was Rs.6,01,004/-. But, the Tribunal has awarded only a sum of Rs.4,60,000/-, stating that the charges given by the hospital is on the higher side. The claimant cannot be held responsible for the charges given by the hospital and the tribunal is wrong in not awarding the compensation for the amount actually incurred towards medical expenses. Therefore, this Court is inclined to award a sum of Rs.6,01,004/- which is the actual amount incurred towards medical expenses. Since, the claimant has to take further treatment for the grievous injuries sustained, a sum of Rs.50,000/- is awarded towards future medical expenses.

9. The tribunal has not awarded any compensation towards loss of amenities despite the fact that the claimant has sustained six fractures and undergone two surgeries and he will not be in a position to work, without the help of others. Considering the nature of injuries sustained by the claimant, a sum of Rs.50,000/- is awarded towards loss of amenities.

10. Considering the nature of the injuries sustained by the claimant and also the surgeries undergone by the claimant, the amount awarded towards pain and suffering is enhanced to Rs.50,000/-.

11. The amount awarded towards Transport and Nutrition and Loss of earnings for six months is confirmed.

12. The amount of compensation awarded by the tribunal is revised as follows:

Pain and Sufferings - Rs. 50,000/-

Transport and Nutrition - Rs. 15,000/-

Partial Permanent disablement - Rs.1,10,000/-

Medical expenses - Rs.6,01,004/-

Loss of income for six months (7000x6) - Rs. 42,000/-

Loss of amenities - Rs. 50,000/-

Future Medical expenses - Rs. 50,000/-

13.In the result, C.M.A.No.2550 of 2016, filed by the Insurance Company stands dismissed and C.M.A.No.431 of 2016, is partly allowed enhancing the compensation awarded by the tribunal, from Rs.6,47,000/- to Rs.9,18,004/-. The Insurance Company is directed to deposit the enhanced award amount, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the claimant is permitted to withdraw. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

The Motor Accident Claims Tribunal /
Chief Judicial Magistrate,
Chengalpet,
Villupuram District.

+1cc to Mr.S.Sairaman, Advocate, S.R.No.15937

+1cc to Mr.A.N.Viswanatha Rao, Advocate, S.R.No.15618

C.M.A. Nos. 431 and 2550 of 2016

EV(CO)
CA(03/04/2017)

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