

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2017

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

C.M.A.No.1975 of 2017

M.Jayakumar

... Appellant/Petitioner

Versus

Metropolitan Transport Corporation,
(Chennai Division) Ltd.,
Represented by its Managing Director,
Pallavan Salai,
Chennai - 600 002

... Respondent/Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 20.07.2016 made in MACT O.P. No.6303 of 2014, on the file of the III Small Causes Court (Motor Accidents Claims Tribunal), Chennai.

For Appellant : Mr.N.M.Muthurajan

For Respondent : Mr.S.Sivakumar

JUDGMENT

The claimant Jayakumar, a Senior Software Analyst employed in Bally Technologies India Pvt. Ltd, earning a sum of Rs.61,841/- per month and who is also an Income Tax assessee, met with an accident on 19.08.2013. For the injuries sustained by him in the accident, he filed the claim petition, claiming a compensation of Rs.10,00,000/-. The Tribunal on consideration of materials placed before it, awarded compensation of Rs.1,96,000/- and the break up details of the award reads as under :

Pecuniary loss:

Transport to Hospital	:	5,000/-
Extra nourishment	:	25,000/-
Damages to clothes	:	1,000/-

Non pecuniary loss :

Damages for mental shock and agony	:	10,000/-
Pain and suffering	:	40,000/-
Loss of amenities	:	25,000/-
Disability 30% @ Rs.3,000/-	:	90,000/-

Total	:	Rs.1,96,000/-

2. The learned counsel for the appellant pleaded for enhancement of compensation on the ground that the leave taken by the claimant during the period of his treatment has not been adequately compensated and the loss of earning capacity has not been awarded at all.

3. The learned counsel for the respondent would point out that there was neither loss of earnings nor loss of earning capacity and therefore, there is no question of passing an award for loss of earning capacity, when the claimant continued in the same job apart from obtaining promotion.

4. Therefore, the Tribunal has chosen to award disablement compensation. It is pointed out that the award for disablement compensation is taken at the rate of Rs.3,000/- per percentage and Rs.90,000/- was awarded towards the same and it is reasonable.

5. In the above circumstances, the appeal filed by the claimant is liable to be dismissed and accordingly, the appeal is dismissed. No costs.

6. The respondent / transport corporation is directed to deposit the entire award amount, along with interest @ 7.5% per annum from the date of petition till the date of deposit, less 174 days, (the period of delay in filing the appeal) and costs as ordered by the Tribunal, less the amount already deposited, if any, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the claimant through RTGS within a period of two weeks thereafter.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

1. Motor Accidents Claims Tribunal,
III Small Causes Court,
Chennai.

2.The Section Officer,
V.R. Section,
High Court, Madras - 104.

+lcc to Mr.N.M.Muthurajan, Advocate Sr. 47641

CMA No.1975 of 2017

MSM(CO)
VR(11/09/2017)



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