

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2017

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.2018 of 2017

P.N.Duraiswamy

.. Appellant/Petitioner

/Vs/

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
(VPM) Limited, Villupuram, Kanchipuram,
Region - 631 502. ... Respondent/Respondent

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 22.07.2016 made in M.C.O.P.No.4360 of 2012 on the file of the IV Judge, Small Causes Court, Motor Accidents Claims Tribunal, Chennai.

For Appellant : Mr. A.N.Viswanatha Rao
For Respondent : Mr. S.V.Vasanthakumar

JUDGMENT

As against the claim made for a sum of Rs.7,00,000/-, the tribunal has passed an award for a sum of Rs.1,70,500/- with the following break-up details:

Disability	-	Rs. 1,05,000 . 00
Pain and suffering	-	Rs. 30,000 . 00
Extra nourishment	-	Rs. 4,000 . 00
Transport to Hospital	-	Rs. 4,000 . 00
Damages to clothes	-	Rs. 750 . 00
Attender charges	-	Rs. 3,600 . 00
Medical expenses	-	Rs. 6,580 . 00
Future Medical Expenses	-	Rs. 5,000 . 00
Loss of income	-	Rs. 6,500 . 00
Loss of Amenities	-	Rs. 5,000 . 00

Total		Rs. 1,70,430 . 00

the same is rounded to Rs.1,70,500/-

2. The claimant, Duraisamy, aged 55 years, a coolie worker, earning a sum of Rs.300/- per day, met with an accident on 21.01.2012. He filed a claim petition for compensation in respect of injury sustained and consequent permanent disablement alleging that there is loss of earning capacity and loss of enjoyment of amenities. The tribunal, on consideration of materials produced before it, has passed an award and challenging the same as inadequate, the claimant filed this appeal.

3. The learned counsel for the claimant would submit that the claimant had taken treatment as inpatient from 21.01.2012 to 07.02.2012 and thereafter, continuously taken treatment as out patient in the same hospital and this detail itself would go to show that the award passed by the tribunal towards pain and suffering, and loss of amenities, are grossly inadequate.

3.1 It is pointed out that when the date of accident is 21.01.2012, the disablement compensation has been awarded at lower rate and it ought to have been awarded at Rs.3000/- per percentage as per settled practice of awarding compensation. The Doctor has certified the disability at 50%. If disablement compensation is awarded at Rs.3000/- per percentage, then a sum of Rs.1,50,000/- (Rs.3000/- x 50%) has to be awarded. The tribunal ought to have considered the same especially when loss of earning capacity is not awarded, using the multiplier method of quantification correspondingly. Having regard to the nature of injury, i.e. committted fracture M13 Clavicle and communitied Fracture body of scapula right and considering his age, the compensation awarded ought to be reconstructed and enhancement has to be made under appropriate head.

4. The learned counsel appearing for the claimant also would point out that there is evidence to show that implant i.e. plates and screws have to be removed and removal of implant would require future medical expenses and future medical expenses has to be enhanced.

5. Considering the nature of the disability, disablement compensation is awarded at Rs.3000/- per percentage, then a sum of Rs.1,50,000/- (Rs.3000/- x 50%) is awarded and further considering this removal of plates and screws, future medical expenses is enhanced from Rs.5000/- to Rs.20,000/-, cost of attender charges is enhanced from Rs.3,600/- to 6,000/-, extra nourishment is enhanced from Rs.4,000/- to Rs.10,000/-, pain and suffering is enhanced from Rs.30,000 to Rs.50,000/-, loss of amenities is enhanced from 5,000/- to Rs.25,000/-, loss of income (3 months) is enhanced from 6,500/- to Rs.19,500/-, medical expenses is awarded only as per the bills. Hence, no enhancement on medical bills.

6. In the result, over all compensation is enhanced from 1,70,500/- to 2,91,830/- with interest at 7.5% per annum from the date of petition till the date of deposit. This appeal is allowed to the extent indicated above. No costs.

7. The respondent/Transport Corporation is directed to deposit the entire award amount as determined by this Court, along with interest at 7.5% from the date of numbering the petition i.e. on 26.09.2012, till the date of realisation and costs, less the amount already deposited, if any, before the Tribunal, within a period of six 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 appellant/claimant through RTGS within a period of two weeks thereafter.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

sms/kv

To

1. The IV Judge, Small Causes Court,
Motor Accidents Claims Tribunal, Chennai.

2. The Section Officer, VR Section,
High Court, Madras.

+ 1 cc to Mr. A.N.Viswanatha Rao, Advocate, SR.50516

+ 1 cc to M/s.Vasantha Kumar, Advocate, SR.50580

सत्यमेव जयते

C.M.A.No.2018 of 2017

NM(CO)

NR 11/10/2017

WEB COPY