

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2017

CORAM:

THE HONOURABLE MRS. JUSTICE. PUSHPA SATHYANARAYANA

CMA.No.788 of 2017

M.Vijayan

... Appellant/Claimant

Vs.

The Managing Director,
Tamil Nadu State Transport
Corporation Ltd, Division-III,
No.1 & 2 Sheikpet Nadu Street,
Kanchipuram

... Respondent/Respondent

Prayer : Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 18.10.2012 made in M.C.O.P.No.134 of 2008 on the file of the Motor Accident Claims Tribunal, Sub Court, Kancheepuram.

For Appellant : Mr.C.Prabakaran

For Respondents : Mr.K.J.Sivakumar

J U D G M E N T

Challenging the quantum of compensation awarded by the Claims Tribunal, in M.C.O.P.No.134 of 2008, dated 18.10.2012, the Claimant has come forward with this Civil Miscellaneous Appeal.

2. The Claimant, aged 27 years, a driver, earning a sum of Rs.6,000/- per month, met with an accident on 17.09.2007. Due to which he sustained fracture in the right leg, cut injury over the left fore head, right ear, fracture over the right shoulder, Lacerations over the right hand, fingers, leg fingers and fracture over the rib bones and contusions over the hip, head, hands and chest. Hence, the claimant filed a claim petition in M.C.O.P.No.134 of 2008, claiming 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.1,56,000/-, with interest @ 7.5% per annum from the date of petition till the date of payment with proportionate costs. The break-up details of the same are as under:

Permanent disability	-	Rs.96,000/-
Medical Expenses & Extra Nourishment	-	Rs.10,000/-

Pain and sufferings & Mental agony	-	Rs.20,000/-
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Future Medical expenses	-	Rs.30,000/-
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Rs.1,56,000/-

4. The learned counsel for the appellant would contend that due to accident, the appellant has lost the avocation of driver and subsequent to the accident and therefore the appellant is unable to drive the vehicle. Therefore, the tribunal ought to have adopted multiplier method while awarding compensation towards permanent disability. He would further submit that the tribunal has not awarded any compensation towards transport charges. He would further submit that loss of amenities was not considered while awarding compensation.

5. The learned counsel for the respondent would submit that the Claims Tribunal has awarded a just and reasonable compensation, after considering the oral and documentary evidence and therefore the same need not be interfered with.

6. Considering the submissions made by the learned counsel appearing on either side and considering the fact that the claimant is a driver and he is unable to carry on his avocation, due to fracture over the right femur and as the disability fixed by tribunal is 48%, a sum of Rs.3,000/- is awarded towards each percentage of disability. Hence a sum of Rs. 1,44,000/- (3000x48) is awarded towards permanent disability. Since, the transport expenses was not awarded by the tribunal, a sum of Rs.10,000/- is awarded towards transport charges. As the claimant was not in a position to do any job, during the period of treatment, fixing monthly income @ Rs.6,000/-, a sum of Rs.18,000/- for three months, is awarded towards Loss of earning. Since, the Loss of amenities was not considered by the Tribunal, a sum of Rs.18,000/- is awarded under this head.

7. In fine, this Civil Miscellaneous Appeal is partly

allowed enhancing the compensation from Rs.1,56,000/- to Rs.2,50,000/- (along with interest @ 7.5% per annum from the date of petition till the date of deposit), which is as under:

Permanent disability - Rs.1,44,000/-

Medical Expenses &
Extra Nourishment - Rs. 10,000/-

Pain and sufferings
& Mental agony - Rs. 20,000/-

Future Medical
expenses - Rs. 30,000/-

Loss of earnings
(6000x3) - Rs. 18,000/-

Transport expenses - Rs. 10,000/-

Loss of amenities - Rs. 18,000/-

Rs.2,50,000/-

8. In the result, this Civil Miscellaneous Appeal is partly allowed. The Transport Corporation is directed to deposit the enhanced amount of compensation 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 the same. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Sub Judge Motor Accident Claims Tribunal, Kancheepuram.

+1 CC to Mr. C.Prabakaran, Advocate sr 16775

+1 CC to Mr. K.J. Sivakumar, Advocate sr 16752

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