

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.12.2017

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THE HONOURABLE TMT. JUSTICE S.RAMATHILAGAM

C.M.A.No.1808 of 2007

and

M.P. No.1 of 2007

The Managing Director,
The Government State Express Transport
Corporation Ltd., Kancheepuram,
Chengal East District. ...Appellant/Respondent

Versus

Jaiganesh ..Respondent/Appellant

Appeal filed under Section 173 of the Motor Vehicle Act, 1988 against the award made in MCOP No.694 of 1999, dated 30.11.2006 on the file of the Motor Vehicles Accident Claims Tribunal and IV Small Causes Court at Chennai.

For Appellant : Mr.S.V. Vasanthakumar

For Respondent : Mr.J.Mahalingam

JUDGMENT

This appeal has been filed against the Decree and Judgment passed in MCOP No.694 of 1999, dated 30.11.2006 on the file of the Motor Vehicles Accident Claims Tribunal and IV Small Causes Court at Chennai

2. The claim petition was filed by the claimant stating that on 06.09.1998 at about 9.40 am, when he was travelling as pillion rider in the motor cycle bearing Registration No.TN 09 L 6460 from Kosavanpalayam on the Tiruvallur Road the bus bearing Registration No. TN-29-N-0641 belonging to the appellant corporation, coming in the opposite direction, driven by its driver in a rash and negligent manner, hit against the vehicle in which the claimant was travelling. In the said accident, the claimant sustained grievous injuries. Therefore, the claimant filed the claim petition claiming Rs.3,00,000/- as compensation. According to the claimant, at the time of accident, he was 19 years, the Student studying B.SC II year.

3. The Tribunal on considering the oral and documentary evidence, fixed the liability on the respondent and awarded compensation of Rs.3,81,000/- under various heads as under :-

Transport	:	Rs. 5,000/-
For Nutrition	:	Rs. 5,000/-
Medical expenses	:	Rs.1,46,000/-
Mental Agony, Pain and suffering	:	25,000/-
Loss of future earning, partial disability and loss of enjoyment of amenities	:	2,00,000/-

		Rs.3,81,000/-

4. The appellant has filed the appeal on the grounds that the Tribunal has not considered the evidence in proper perspective and fastened the negligence on the appellant/transport Corporation, which is not sustainable. Further, the compensation awarded in a sum of Rs.2,00,000/- towards partial disability and loss of future earning is excessive and erroneously awarded by the Tribunal, since the claimant was a student. On the whole the sum of Rs.3,00,000/- awarded is on the higher side.

5. A perusal of the records reveal that the injured person has been treated as inpatient in the hospital for 45 days. Bills supporting the medical treatment availed of by the claimant has been submitted to the tune of Rs.1,15,837.84. It is evident from records and based on deposition of P.W.16 that the claimant requires another surgery that is likely to cost around Rs.30,000/-. Taking into consideration the above aspect, the Tribunal awarded a sum of Rs1,46,000/- towards medical expenses.

6. The Doctor, who treated the claimant, has assessed the disability at 45%. It is also evident from the records that the claimant was interested in sports and has participated in sporting activities, which are relevant from the certificates. The injuries sustained by the claimant prevented him from involving in sporting activities. The injuries sustained by the claimant are in such a nature that it would be an hindrance to participate in sports activities, in future. This has clearly precluded the claimant from rising up in his career in sports and has nullified his chances of shining in the sporting arena. The Tribunal, therefore, taking into account the above extra-curricular activities of the claimant, which has been jeopardized on account of the injuries suffered by him and the loss of enjoyment that the claimant would be put into due to the said injuries thought it fit to award a consolidated sum of Rs.2,00,000/- towards loss of enjoyment of amenities. Though the Tribunal ought to have quantified the compensation under various heads, including loss of earning capacity, however, the Tribunal has given it as a consolidated amount. In such view of the matter, this Court is of the considered opinion that no interference is called for with the compensation awarded above. Though the quantification is under a single, ultimately it should have been on various other heads, this Court is not interfering with the compensation awarded.

7. The Tribunal, further taking note of the nature of injuries sustained by the claimant, the period of treatment and the impact of the injuries on the day-to-day activities of the claimant, has awarded a sum of Rs.5,000/- towards transportation expenses; a sum of Rs.5,000/- towards nutritious food and a sum of Rs.25,000/- towards pain and suffering. It is the contention of the learned counsel for the appellant that the compensation awarded by the Tribunal is on the higher side and needs reduction, however, it is to be pointed out that the injuries sustained by the claimant resulted in 45% disability, which would definitely have a deleterious effect on the future life of the claimant. In such view of the matter, the Tribunal has awarded compensation conservatively, which cannot be said to be excessive and, accordingly, the same is confirmed.

8. For the reasons aforesaid, this appeal, being devoid of merits, deserves to be dismissed and, accordingly, the same is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

9. The appellant is directed to deposit the compensation awarded by the Tribunal along with interests and costs, as quantified by the Tribunal, less the amount, if any, already deposited, to the credit of the claim petition within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the same directly to the bank account of the claimant through RTGS within a period of two weeks thereafter.

Sd/--

Assistant Registrar(CS II)

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Sub Assistant Registrar

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To

1. Motor Vehicles Accident Claims Tribunal
IV Small Causes Court at Chennai.

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

MG(CO)

sM:18.4.2018

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