

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2017

C O R A M

THE HONOURABLE TMT.JUSTICE S.RAMATHILAGAM

C.M.A.No.2410 of 2007

G.Settu

... Appellant/Petitioner

Vs.

Tamil Nadu State Transport
Corporation rep by its
Managing Director,
Villupuram Division-II,
Rangapuram, Vellore.

...Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal file under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 13.06.2005 in M.C.O.P.No.49 of 2002 on the file of the Motor Accidents Claims Tribunal/Sub-Court, Arni.

For Appellant : Mr.P.Seshadri

For Respondent : Mr.S.V.Vasanthakumar

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the claimant against the judgment and decree dated 13.06.2005 in M.C.O.P.No.49 of 2002 on the file of the Motor Accidents Claims Tribunal/Sub Court, Arni.

2. The brief facts of the claim application is that on 14.12.2001 at about 12.30 p.m. when the appellant was proceeding towards Arni in a bicycle, the bus belonging to the 1st respondent bearing Registration No.TN.23-1086 which was coming in the opposite direction in a rash and negligent manner by its driver hit against the petitioner on his shoulder and the petitioner sustained severe injuries, for which he has claimed a sum of Rs.1,20,000/- as compensation.

3. Before the Tribunal, the case of the claimant was resisted by the Transport Corporation by filing a detailed counter denying the case projected by the claimant.

4. On the side of the claimant, the claimant examined himself as PW.1 and a Doctor was examined as PW.2 and five documents were marked as Ex.P1 to Ex.P5. On the side of the respondent/Transport Corporation, the driver of the bus was examined as R.W.1 and no document was marked.

5. The Tribunal after perusing the documents and also the evidence placed before it awarded a sum of Rs.32,370/- under various heads as hereunder:-

(a) For the Grievious injuries	Rs. 5,000/-
(b) For Disability	Rs. 20,000/-
(c) For Medical expenses	Rs. 1,070/-
(d) For Pain and Suffering	Rs. 3,000/-
(e) For Nutritious Food	Rs. 2,000/-
(f) For Transport expenses	Rs. 1,000/-
(g) For X-ray	Rs. 300/-
Total	Rs. 32,370/-

Aggrieved over the award passed by the Tribunal, the appellant-claimant has filed the present appeal.

6. The learned counsel for the appellant/claimant submitted that the award given by the Tribunal is not a reasonable one, when a claim of Rs.1,20,000/- was made for the injuries sustained by him. The sum awarded under various heads as above is much meagre amount and no amount has been ordered for loss of earning power.

7. Further, the learned counsel for the appellant/claimant submitted that this Court has to consider the grievances of the appellant/claimant based on the decision in Mohan Soni Vs. Ram Avtar Tomar & others [2012 (2) CTC 435]

"In context of loss of future earning, physical disability resulting from an accident to be judged with reference to nature of work being performed by person suffering disability."

In National Insurance Co.Ltd. Vs. G.Ramesh [2013 (2) TN MAC 583]

"Considering young age of claimant as also fact of fast recovery, adopting multiplier method, held, not proper-Applying percentage method, Disability compensation awarded at rate of Rs.3000/- per percentage of disability-practice of awarding at Rs.2,000/- per percentage of disability, held, not correct in view of present day cost of living."

8. On perusal of records pertaining to the injuries sustained by the petitioner, Ex.P2 reveals that the appellant

sustained fracture injuries in his right shoulder, left shoulder and also in his leg. He had also taken treatment in CMC hospital for which Ex.P3 receipts were filed. Ex.P2 also reveals the factum that the injuries sustained by the appellant is grievous one. The disability assessed by the Doctor in Ex.P4 as 30% and the same has been taken by the Tribunal as 20% and awarded a sum of Rs.20,000/-. For the medical expenses, nourishment, pain and suffering a sum of Rs.3,000/-, Rs.2,000/- and Rs.1,000/- respectively were awarded besides granting transport expenses Rs.1,000/-.

9. Considering the age of the injured person at the time of an accident as 20 years, his occupation as agricultural coolie, especially by considering the wound certificate, injuries sustained by him, nature of the injury and also the disability assessed by the Doctor, the loss of income has to be determined.

10. The learned counsel for the appellant also submitted that the Tribunal has not considered all these aspects and the amount as claimed by the claimant, is quite reasonable and that has to be awarded.

11. Considering the injury sustained by the petitioner in Ex.P2, the wound certificate and also Ex.P3, which reveals the nature of the injury sustained by him and also the treatment underwent by the claimant, for pain and suffering a sum of Rs.15,000/-, for Nutritious food a sum of Rs.10,000/- is hereby awarded. Further, on perusal of the records, it is observed that the petitioner was under treatment for four months and for the loss of income for the said period has to be properly compensated, hence awarded a sum of Rs.15,000/-.

Hence, the compensation awarded by the Tribunal is modified as follows:-

Sl. No.	Heads	Compensation awarded by this Court Rs.
1	Disability Rs.3000/- per percentage (3000X20)	60,000
2	Pain and Suffering	15,000
3	Nutritious Food	10,000
4	Transport Charges	10,000
5	X-ray	300
6	Medical Expenses	1,000

7	Loss of income	15,000
	Total	1,11,300

12. In the result, the Civil Miscellaneous Appeal is allowed to the extent indicated above. No costs. The appellant/claimant shall deposit the requisite court fee, if any, on the enhanced compensation amount before receiving a copy of this judgment. The Transport Corporation / respondent herein is directed to deposit the entire amount of compensation, as enhanced by this Court above, less the amount, if any, already deposited, with interest @ 7.5% from the date of petition till the date of deposit to the credit of the claim petition, 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 amount directly to the bank account of the claimant/appellant within a period of two weeks thereafter.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rpl

To

1. The Motor Accidents Claims Tribunal/Sub-Court,
Arni.

Copy to:

The Section Officer,
V.R.Section, High Court,
Madras.

+lcc to Mr.P.Sathish Kumar, Advocate sr.no.877688

C.M.A.No.2410 of 2007

VGII(co)
nr 02/07/2018