

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
AND

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Civil Miscellaneous Appeal No.2898 of 2013

C.Rajendran ... Appellant/petitioner

Vs

Metropolitan Transport Corporation Ltd.,
represented by its Managing Director,
Pallavan Salai, Chennai - 600 002. ... Respondent/Respondent

Civil Miscellaneous Appeal filed u/s.173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 25.04.2013 passed in MACT O.P.No.1230 of 2011 on the file of learned II Judge, Motor Accident Claims Tribunal (Court of Small Causes), Chennai.

For Appellant : Mr.T.Senthil Velmurugan
For Respondent : Mr.K.S.Suresh

J U D G M E N T

[Judgment of the Court was made by C.T.SELVAM, J.]

This Civil Miscellaneous Appeal arises against the judgment and decree of learned II Judge, Motor Accident Claims Tribunal (Court of Small Causes), Chennai, passed in MACT O.P.No.1230 of 2011 on 25.04.2013.

2. Appellant is the claimant. Respondent is the Transport Corporation. On 25.02.2011 at about 10.10 hours, when appellant was standing on the road, the driver of the bus bearing registration No.TN-01-N-4491 belonging to respondent transport corporation drove the same in a rash and negligent manner and hit the appellant owing to which the appellant sustained grievous injuries.

3. Before the Tribunal, on the side of appellant, 3 witnesses were examined and 8 exhibits were marked. One witness was examined on the side of respondent transport corporation and no exhibits were marked.

4. On appreciation of materials before it, Tribunal, under judgment dated 25.04.2013, found that the accident had occurred owing to the rash and negligent driving of the bus. Though it was contended that appellant was a mason and earning a sum of Rs.13,000/- p.m., Tribunal has fixed his monthly income at Rs.8,000/- as there was no document to prove such contention. Taking into consideration that appellant has taken treatment as an inpatient for 16 days and owing to injuries suffered, he would have been prevented from attending his work for a period of four months, Tribunal has awarded a sum of Rs.32,000/- towards loss of earning. Accordingly, the compensation awarded by Tribunal is as follows:

1. Loss of earning for 4 months	:	Rs. 32,000/-
2. Transportation	:	Rs. 10,000/-
3. Extra nourishment	:	Rs. 10,000/-
4. Damage to clothes	:	Rs. 1,000/-
5. Medical expenses	:	Rs.1,35,000/-
6. Loss of amenities of life and mental agony	:	Rs. 20,000/-
7. Pain and suffering	:	Rs. 20,000/-
8. Loss of earning power Rs.8000x12x17x25%	:	Rs.4,08,000/-

		Rs.6,36,000/-

On an overall perusal of the judgment under challenge, this Court finds that a proper approach has been adopted by tribunal in awarding the compensation. However, this Court is unable to subscribe to the view of holding the percentage of disability at 25% when PW-3, Doctor, has certified the same to be 45%. Accordingly, while confirming the compensation awarded by tribunal under the other heads, this Court would enhance the compensation payable under the head 'Loss of Earning Power' to Rs.7,34,400/- [Rs.8,000 x 12 x 17 x 45%]. Accordingly, the total compensation payable would be Rs.9,62,400/- with interest at 7.5%.

The Civil Miscellaneous Appeal is disposed of with the above modification. Respondent Transport Corporation is directed to deposit the enhanced amount within a period of eight weeks from the date of receipt of this judgment. Appellant is at liberty to withdraw the amount on due application. No costs.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

gm

To
The II Judge,
Motor Accident Claims Tribunal
(Court of Small Causes),
Chennai.

+1cc to Mr.M.SWAMIKKANNU Advocate, S.R.No. 71161

+1cc to Mr.K.S.SURESH Advocate, S.R.No. 71027

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RK (CO)
TR(28/11/2017)

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