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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.10.2018

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THE HONOURABLE Mrs.JUSTICE S.RAMATHILAGAM

C.M.A.No.3829 of 2005

P.Muralidharan
Through his next friend, guardian and mother
Mrs.K.P.Meera.

... Appellant/Claimant

Versus

Tamilnadu State Transport Corporation,
Salem Branch-2,
Bharathipuram,
Dharmapuri-636 705.

... Respondent/Respondent

Civil Miscellaneous Appeal filed under Section 173 of M.V. Act 1988, against the judgment and decree dated 16.04.2003 made in MCOP.No.27 of 2001 on the file of the Motor Accidents Claims Tribunal, Salem.

For Appellant : Mr.Neelakandan

For Respondent : Mr.D.Venkatachalam

JUDGMENT

The Civil Miscellaneous Appeal has been preferred by the claimant / appellant herein against the award passed in MCOP No.27 of 2001 on the file of the Motor Accidents Claims Tribunal, Salem.

2. The brief facts of the claim application are as under :-

The claimant/ appellant had met with an accident on 14.11.1999, when he was travelling as a passenger in the bus bearing Registration No.TN 29 N 0906, which belongs to the respondent Transport Corporation. In the claim petition, it is stated that because of the negligent act of the driver of the Transport Corporation, who had started the bus without noticing the claimant getting down from the bus, the appellant was thrown away, due to which he sustained severe injuries all over the



body, which resulted in disability. Hence, he claimed a sum of Rs.2,00,000/- as compensation.

3. The Tribunal upon considering the materials placed before it, has awarded a compensation of Rs.65,340/- under the following heads:-

Loss of income	:	Rs.51,840/-
Pain and sufferings	:	5,000/-
Nutrition	:	5,000/-
Transport expenses	:	1,000/-
Damages to clothes	:	500/-
Scan charges	:	2,000/-

		Rs. 65,340/-

3. Challenging the award as inadequate, the appellant has filed this appeal for enhancement.

4. It is argued by the learned counsel for the appellant that the injured/appellant had sustained severe injuries, in the said accident and undergone treatment for nearly 3 to 4 years for the injuries sustained in his head. He was given treatment at Harur Government Hospital and then subsequently admitted as inpatient in Salem Government Hospital for one month. He has also taken treatment as out patient for nearly 3 to 4 years.

5. It is the further contention of the learned counsel for the appellant that the claimant has become mentally ill due to the injuries sustained on his head and also incurred huge loss of income, and unable to maintain his family.

6. On the side of the respondent, a counter statement has been filed, in which the accident itself was denied. The travel by the claimant on the particular date as a passenger in the bus is also disputed by the Corporation. It is stated that the Tribunal, as a measure of sympathy, has awarded the above compensation, which does not require any enhancement.

7. On perusal of records, it is seen that the Tribunal by taking the annual loss of income at Rs.21,600/- and adopting multiplier of 16 and quantifying the percentage of disability at 15%, arrived at the loss of income due to the disability at Rs.51,840/= (Rs.21,600 X 16 = 3,45,600 x 15% = Rs.51,840/-).

8. This Court has considered the contentions advanced by the learned counsel on either side and also perused the materials available on record. Exs. P2 to P5 and P7 to P9 are the documents produced to substantiate the claim made in respect of nature of injuries suffered by the claimant, the period of



treatment and also the expenses incurred for the various treatment.

9. On the side of the claimant PW2 was examined before the Tribunal, who has furnished the disability certificate Ex.P6 in which, he has stated that scan taken on 28.02.2003 reveal the fact that the claimant's brain has shrunk to some extent and that the claimant is continuously suffering from giddiness and he is also suffering from loss of memory. The Doctor has assessed the disability at 15%.

10. However, it is evident from the records that the claimant is a married person and having two children and he was 36 years at the time of the accident. Considering the above position of the claimant, this Court feels that the monthly income fixed by the tribunal at Rs.1,800/- is meagre. Hence, this Court inclined to increase the monthly income by taking into consideration the fact that to maintain the family consisting of himself, his spouse and two children, the claimant would definitely have earned more. Therefore, it would be appropriate to fix a sum of Rs.2,500/- towards monthly income. Accordingly, by fixing the monthly income at Rs.2,500/- and adopting the multiplier of 16, this Court arrives at the loss of income to the claimant for the 15% disability suffered by him at Rs.72,000/- (Rs.2,500 X 12 X 16 X 15% = Rs.72,000/-).

13. Insofar as the compensation awarded under the head pain and suffering is concerned, considering the nature of injuries sustained by the claimant and the period of hospitalisation, this Court is of the considered view that a sum of Rs.10,000/- under the head pain and suffering would be a just and reasonable compensation. Likewise the compensation awarded under the head Transport Expenses is also on the lower side. A sum of Rs.5,000/- towards transportation would be just and adequate. The compensation awarded under other heads are just and reasonable and does not require any interference. Accordingly, the compensation awarded by the Tribunal is modified and the enhanced compensation under the various heads are as hereunder :-

Heads	Sum awarded by the Tribunal	Sum modified by this Court
Loss of income	Rs.51,840/-	Rs.72,000/-
Pain and sufferings	5,000/-	10,000/-
Nutrition	5,000/-	5,000/-
Transport expenses	1,000/-	5,000/-



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Heads	Sum awarded by the Tribunal	Sum modified by this Court
Damages to clothes	500/-	500/-
Scan charges	2,000/-	2,000/-
Total	Rs.65,340/-	94,500/-

14. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed. The appellant is directed to pay the necessary court fee for the enhanced award amount.

15. The respondent / Transport Corporation is directed to deposit the entire amount of compensation, as modified by this Court, less the amount, if any, already deposited, along with interest @ 7.5% from the date of petition till the date of deposit and costs to the credit of MCOP No.27 of 2001 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, through RTGS, within a period of two weeks thereafter.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Motor Accidents Claims Tribunal,
Salem.

2.Tamilnadu State Transport Corporation,
Salem Branch-2,
Bharathipuram,
Dharmapuri-636 705.



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

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+1cc to Mr.D.Venkatachalam, Advocate Sr.70646

C.M.A.No.3829 of 2005

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srg 07/08/2019