

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2018

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1390 of 2010

S.Sasi Kumar

... Appellant/Claimant

..Vs..

Metropolitan Transport Corporation Ltd.,
rep.by its Managing Director,
Pallavan Salai,
Chennai 600 002.

...Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 25.02.2010 made in MACT O.P. No.803 of 2006 on the file of the V Judge, Motor Accidents Claims Tribunal, (Court of Small Causes), Chennai.

For Appellant : M/s.P.T.Salim Fathima

For Respondent : Mr.S.V.Vasanth Kumar

J U D G M E N T

The instant appeal has been filed by the Appellant/Claimant challenging the award dated 25.02.2010 passed by the Motor Accident Claims Tribunal (Vth Court of Small Causes, Chennai) in M.C.O.P.No.803 of 2006 seeking enhancement of compensation under the impugned award.

2.The brief facts leading to the filing of the instant appeal are as follows:

The Appellant sustained injuries on 06.02.2006, as a result of an accident caused by a bus bearing Registration No.TN 01 N 1766 owned by the respondent Transport Corporation. The Appellant preferred a claim before the Motor Accident Claims Tribunal in M.A.C.T.O.P.No.803 of 2006 seeking a compensation of Rs.7,00,000/-. The Motor Accident Claims Tribunal by its award dated 25.02.2010 in M.A.C.T.O.P.No.803 of 2006 directed the respondent to pay the appellant a sum of Rs.1,41,000/- together with interest at 7.5% per annum from the date of claim till the

date of realization.

3. Aggrieved by the Award dated 25.02.2010 passed by the Motor Accident Claims Tribunal, in M.A.C.T.O.P.No.803 of 2006, the instant appeal has been filed by the claimant seeking enhancement of compensation.

4. Heard Ms.Salim Fathima, learned counsel for the Appellant and Mr.S.V.Vasantha Kumar learned counsel for the respondent.

5. According to the learned counsel for the Appellant, the Tribunal has erroneously assessed the monthly income of the Appellant only at Rs.3,000/-, even though, the Appellant who was employed as a Water Service Boy was earning a monthly income of Rs.4,500/- on the date of the accident. Further according to the learned counsel for the Appellant, the Tribunal has also awarded a lesser amount towards Extra Nourishment Charges and has also awarded lesser amount towards mental agony, pain and suffering. According to her, even though the claim was made for a sum of Rs.7,00,000/-, the tribunal has awarded only a sum of Rs.1,41,000/- to the Appellant under the impugned award.

6. Per contra, the learned counsel for the respondent-Transport Corporation would submit that no document was filed by the Appellant before the Tribunal to prove that he was earning a monthly income of Rs.4,500/- as a Water Service Boy at the time of the accident. Therefore, considering the year of the accident, the Tribunal has rightly assessed the compensation payable to the Appellant under the impugned award.

7. This Court after having considered the materials available on record, and after examining the impugned Award, and after hearing the submissions of the respective counsels observes the following:

a) This Court by its order dated 17.09.2018, directed the Appellant to be present before this Court. The Appellant appeared today, and this Court put certain questions on the Appellant. The Appellant confessed that while he was a bystander on the road, the Bus owned by the respondent Corporation hit him which resulted in injuries sustained by him. In the claim petition, the pleadings are totally different. The Appellant has pleaded in the claim petition that while he was riding a Motor Cycle, and the Bus coming from the opposite direction hit the Motor Cycle, the fell down from the Motor Cycle which resulted in injuries sustained by him. On appearance, the Appellant also looks reasonably fit condition. It is the duty of this Court to award just compensation to the claimants in Motor Accident Cases. Having personally seen the appellant, this Court does not find any merit in the case of the Appellant for enhancement of

compensation.

b)The Appellant has not produced any document before the Tribunal to prove that he was earning a monthly income of Rs.4,500/- at the time of the accident. Considering the year of the accident, the Tribunal has rightly assessed the notional monthly income of the Appellant at Rs.3,000/- .

c)The award passed by the Tribunal is a reasonable and well considered award which does not call for any interference by this Court. The compensation awarded to the Appellant under various heads of claim under the impugned award is a just compensation.

8. In the light of the above observations, this Court does not find any merit in the instant appeal. Accordingly the appeal is dismissed. However, there shall be no order as to costs.

9. The respondent is directed to deposit the Award amount together with interest from the date of claim till the date of deposit, after deducting the amount already deposited, to the credit of MCOP.No.803 of 2006 on the file of the V Judge, Motor Accidents Claims Tribunal, (Court of Small Causes), Chennai within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Appellant is permitted to withdraw the amount along with interest lying to the credit of MCOP No.803 of 2006 by filing an appropriate application.

Sd/-

Assistant Registrar(CS-VIII)

//True copy//

Sub Assistant Registrar

KP

To

1.V Judge, Motor Accidents Claims Tribunal,
(Court of Small Causes), Chennai-2.

2.The Record Clerk, VR Section, High Court, Chennai.

+1cc to Mr.S.V.Vasanthakumar, Advocate SR.No.66101

+1cc to Mr.M.Swamikkannu, Advocate SR.No.66136

C.M.A.No.1390 of 2010

SK(CO)

GMV(09/11/2018)