

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1848 of 2011

A.Babu ... Appellant

Vs

The Managing Director,
Tamil Nadu State Transport Corporation Limited.,
Kancheepuram. ... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 16.09.2010 and made in M.C.O.P.No.478 of 2008 on the file of the Motor Accident Claims Tribunal, Additional Sessions Judge, Fast Track Court No.2, Poonamallee.

For Appellant : Mr.C.Prabakaran

For Respondent : Mr.S.Sairaman

J U D G M E N T

The instant appeal has been filed by the claimant seeking enhancement of compensation under the impugned Award dated 16.09.2010 passed by the Motor Accident Claims Tribunal, Additional Sessions Judge, FTC No.II, Poonamallee in M.C.O.P.No.478 of 2008.

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

- (i) the appellant sustained injuries on 22.7.2008, as a result of an accident caused by a bus bearing Registration No.TN-74-0601 owned by the respondent transport corporation. The appellant was riding the Motor Cycle bearing Registration No.TN-20-AC-2485 and the bus bearing Registration No.TN-74-0601 owned by the respondent Transport Corporation dashed against the motor cycle due to the rash and negligent driving by the driver of the bus which resulted in injuries sustained by the appellant.
- (ii) The appellant preferred a claim before the Motor Accident Claims Tribunal in MCOP.No.478 of 2008 seeking a compensation of Rs.3,03,000/-.
- (iii) The Motor Accident Claims Tribunal, by its award dated 16.9.2010 in MCOP.No.478 of 2008 directed the respondent transport corporation to pay the appellant, a sum of Rs.2,06,300/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realisation.
- (iv) Aggrieved by the quantum of compensation awarded by the tribunal, the instant appeal has been filed by the claimant seeking enhancement of compensation.

3. Heard Mr.C.Prabakaran, learned counsel for the appellant and Mr.S.Sairaman, learned counsel for the respondent.
4. According to the learned counsel for the appellant, even though the Doctor has assessed the disability of the appellant at 60%, the tribunal has erroneously awarded a meagre compensation of only Rs.90,000/-.
5. According to him, considering the year of the accident which happened in 2008, the tribunal ought to have awarded a higher compensation to the appellant towards the disability suffered by him as a result of the accident.
6. Per contra, the learned counsel for the 2nd respondent would submit that the compensation awarded by the tribunal under the impugned award is a just compensation.
7. According to him, the appellant has suffered only one fracture in the right wrist and therefore the tribunal has rightly assessed the compensation payable to the appellant under the impugned award.
8. 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) The appellant had made a claim before the tribunal for two lakhs and had disclosed that he was aged 32 years and was a Dance Master, earning a monthly income of Rs.15,000/.
- (b) The Doctor has assessed the disability of the appellant at 60% and the Doctor was also examined before the tribunal as PW2. The accident happened in the year 2008 and the tribunal, under the impugned award has assessed the disability compensation payable to the appellant at Rs.90,000/- calculated at the rate of Rs.1,500/- per percentage of disability.
- (c) In the considered view of this Court, considering the nature of injury sustained by the appellant and his avocation and his age, the tribunal ought to have awarded Rs.2000/- per percentage of disability and should have assessed the disability compensation for the appellant at Rs.1,20,000/- instead of Rs.90,000/-. Insofar as other heads of compensation are concerned, this Court finds that they are in order and there is no scope for interference in this appeal.
- (d) In all put together, this Court enhances the compensation awarded by the tribunal in the following manner;

Sl. No.

Amount awarded by the tribunal

Amount Awarded by this Court

Permanent disability at 60% (60 x 2000)

Transportation cost

Rs. 90,000/-

Rs. 5,000/-

Rs.1,20,000/-

Rs. 5,000/-

Extra nourishment

Rs. 5,000/-

Rs. 5,000/-

Pain and suffering

Rs.10,000/-

Rs.10,000/-

Medical expenses

Rs.86,300/-

Rs.86,300/-

Loss of income
Rs. 5,000/-
Rs. 5,000/-
Attender charges
Rs. 5,000/-
Rs. 5,000/-
Total
Rs. 2,06,300/-
Rs. 2,36,300/-

9. In the result, the compensation awarded by the tribunal under the impugned award is enhanced from Rs.2,06,300/- to Rs.2,36,300/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realisation.

10. In the result,

- i) the Civil Miscellaneous Appeal is partly allowed. No costs.
- ii) the compensation awarded by the tribunal is enhanced from Rs.2,06,300/- to Rs.2,36,300/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realisation.
- iii) It is represented that the entire Award amount has already been deposited before the Tribunal. The respondent is directed to deposit the enhanced compensation amount awarded by this Court along with interest at the rate of 7.5% per annum from the date of claim, till the date of realisation to the credit of MCOP.No.478 of 2008 before the tribunal.
- v) On such deposit being made, the appellant is permitted to withdraw the same on filing an appropriate application.

10.10.2018

Internet: Yes/No

Index: Yes/No

Speaking order/Non-speaking order
msr

To
1.Additional Sessions Judge,
The Motor Accident Claims Tribunal,
Fast Track Court No.2,
Poonamallee.

2.The Record Clerk,
Vernacular Section,
Madras High Court.

ABDUL QUDDHOSE, J.
msr

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