

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2018

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.1938 of 2011

Abdul Jaffar

... Appellant

..Vs..

Managing Director,
Tamil Nadu State Transportation
Corporation Limited,
Villupuram.

...Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the decree and judgment dated 01.03.2007 and made in M.C.O.P.No.243 of 2005 on the file of the Motor Accident Claims Tribunal Judge/Principal Subordinate Judge/Tiruvannamalai.

For Appellant : Ms.M.Malar

For Respondent : Mr.S.V.Vasantha Kumar

JUDGMENT

The appellant is the claimant in M.C.O.P.No.243 of 2005 on the file of the Principal Subordinate Judge, Tiruvannamalai. He filed the above Claim Petition seeking compensation of Rs.3,00,000/- for the injuries sustained by him in a road accident that took place on 22.06.2004.

2.The brief facts of the case of the claimant are as follows:

The case of the petitioner/claimant is that he was an agriculturist earning a sum of Rs.4000/- per month and on 22.06.2004, at about 01.00 A.M, while he was travelling as a passenger in a bus bearing Registration No.TN 32 N 2008 belonging to the respondent, from Chennai to Tiruvannamalai, the driver of the bus drove the bus rashly and negligently and hit a lorry bearing Registration No.PY 01 S 2475, as a result whereof, the appellant/claimant sustained injuries all over his body. According to the appellant, he was rushed to a nearby hospital and that the rash and negligent driving of the driver of the

bus, was the cause of accident. The Tribunal after analysing the evidence on record, awarded a compensation of Rs.50,800/- together with interest at the rate of 7.5% p.a. Not satisfied with the quantum of award passed by the Tribunal, the appellant/claimant has filed this present appeal seeking for enhancement of compensation.

3.Ms.M.Malar, learned counsel appearing for the appellant contended that though there is a fracture of bones on both the legs of the appellant/claimant, the Tribunal has awarded a meagre amount of Rs.50,800/- for the injuries sustained by the claimant. She would further contend that when the doctor Raveendran (P.W.2) has assessed the partial permanent disability as 45%, the learned Tribunal without assigning reasons has reduced the same to 10%. The award passed by the Tribunal under various heads are extracted hereunder:

Sl.No.	Head	Amount (Rs.)
1.	Damages	40,800/-
2.	Pain and suffering	5,000/-
3.	Medical expenses and expenses on attender	5,000/-
	Total	50,800/-

4.Per Contra, the learned counsel appearing for the respondent would contend that the Tribunal after considering various aspects and also the injuries sustained by the appellant, had awarded just and fair compensation and therefore the same does not warrant any interference of this Court. It is true that the Trial Court without assigning any reason had reduced the partial permanent disability as 10%. Doctor Raveendran (P.W.2) had given cogent reasons for arriving at 45% disability. The Trial Court had adopted multiplier method, which is not warranted, especially, when there is no functional disability. Therefore, I hold that awarding a sum of Rs.2000/- per percentage towards partial permanent disability would meet the ends of justice and thus a sum of Rs.90,000/- is awarded towards partial permanent disability.

5.The contention of the appellant/claimant is that he was an agriculturist earning a sum of Rs.4000/- per month. Since, no documentary evidence was adduced to prove his income and the accident took place in the year 2004, a sum of Rs.3000/- is fixed as notional income of the appellant/claimant.

Since, the appellant/claimant would not have been in a position to attend to his regular work on account of the accident atleast for three months, a sum of Rs.9,000/- is awarded towards the loss of income. Thus, the appellant/claimant is entitled to the following amounts as detailed hereunder:

S.No.	Head	Amount granted (Rs.)
1.	Partial Permanent Disabilities (45xRs.2000)	90,000/-
2.	Loss of Income	9,000/-
3.	Pain and sufferings	10,000/-
4.	Extra Nourishment	6,000/-
5.	Transportation	10,000/-
6.	Attender charges	5,000/-
Total		Rs.1,30,000/-

Thus, the appellant/claimant is entitled a sum of Rs.1,30,000/- (Rupees One lakh Thirty Thousand only) which shall carry interest at the rate of 7.5% per annum from the date of filing of the claim petition till the date of deposit. The respondent is directed to deposit the enhanced compensation amount within a period of six weeks from the date of receipt of a copy of this order together with interest and costs and on such deposit being made, the appellant/claimant, is entitled to withdraw the same after following due procedure of law.

6. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

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To

The learned Principal Sub Judge, Tiruvannamalai.

+1cc to Mr.M.Malar, Advocate, S.R.No. 85281

C.M.A.No.1938 of 2011

RGN (CO)
GN (25/01/2019)