

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CMA.No. 2767 of 2015
and CMP No.16165 of 2018

S.Paramasivam ... Appellant/Claimant
-vs-

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan Salai, Chennai 2. ... Respondent/Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 23.01.2015 made in MCOP No.2645 of 2013, on the file of the Motor Accidents Claims Tribunal, Small Causes Court III, Chennai.

Civil Miscellaneous Petition filed U/O XLI Rule 27 of CPC r/w section 151 CPC to receive the Additional Documents in this Appeal.

For Appellant : Mr. R.Rajaramani

For Respondent : Mr.S.S.Swaminathan

J U D G M E N T

[Judgment of the Court delivered by R.SUBRAMANIAN,J.]

The claimant, who had been granted a sum of Rs.6,03,955/- as compensation for the injuries suffered by him in a motor accident that occurred on 19.11.2012 has come forward with the above appeal seeking enhancement.

2. Since the appeal is by the claimant seeking enhancement, we do not propose to go into the question of negligence. Insofar as the quantum of compensation is concerned, the claimant would contend that he had suffered permanent disability because of the injuries, which resulted in amputation of his left leg above the knee. The claimant would therefore contend that there is a loss of earning power because of the amputation. The Tribunal assessed the disability at 70%, took his salary

notionally at Rs.6,000/- per month, and granted a sum of Rs.3,60,000/- towards loss of earning power. The Tribunal also granted a sum of Rs.43,455/- towards Medical Expenses, rejecting bills which are filed in duplicate or xerox copy. The Tribunal also granted the following amounts under the various heads as compensation.

S.No.	Heads	Amount
1.	Transport to Hospital	Rs. 15,000/-
2.	Extra Nourishment	Rs. 20,000/-
3.	Damage to clothing	Rs. 500/-
4.	Medical Expenses	Rs. 43,455/-
5.	Attender Charges	Rs. 15,000/-
6.	Loss of amenities	Rs. 25,000/-
7.	Pain and suffering	Rs. 75,000/-
8.	Loss of expectation of Life	Rs. 50,000/-
9.	Permanent Disability at 100% Rs.6,000/- x 12 x 5 x 100%	Rs. 3,60,000/-
	TOTAL	Rs. 6,03,955/-

Thus the total compensation was fixed by the Tribunal at Rs.6,03,955/-.

3. Aggrieved the claimant is on appeal before this Court.

4. We have heard Mr.R.Rajaramani, learned counsel appearing for the appellant and Mr.S.S.Swaminathan, learned counsel appearing for the respondent.

5. It is not in dispute that the claimant was a Managing Director of the Transport Corporation and he has after retirement taken up a job in a Private University. His claim was that he was drawing a salary of Rs.35,000/- per month. The Tribunal disbelieved the Salary Certificate said to have been issued by the University and took the notional salary at Rs.6,000/- per month.

6. Mr.Rajaramani, learned counsel appearing for the appellant/claimant would vehemently contend that the fixation of the salary at Rs.6,000/- per month, that too for a person, who is under Graduate in Engineering, with a Post Graduate Degree in Business Administration and had retired as a Managing Director

of the State Transport Corporation is very low. He would also fault the Tribunal for rejecting the Medical Bills, which had been produced as evidence of the medical expenses.

7. Mr.S.S.Swaminathan learned counsel appearing for the respondent Corporation would submit that the Tribunal was right in assessing the income at Rs.6,000/- per month, he would also fault the claimant for not producing the original medical bills which resulted in the Tribunal rejecting the claim under the medical expenses.

8. The claimant has filed CMP No.16165 of 2018 seeking to produce additional documents, which are originals of the medical bills. Though, Mr.S.S.Swaminathan, learned counsel appearing for the Transport Corporation would raise an objection on the ground of delay in filing the documents, we do not see any prejudice being caused to the Corporation by allowing the application for production of additional documents. In the affidavit filed in support of the application, the claimant has narrated the sequence of the events that led to the filing the xerox copies before the Tribunal which are acceptable. Hence, the application is ordered documents that are sought to be filed an additional evidence, namely the Medical Bills and the Certificates relating to the Educational qualification of the claimant have marked as Exs.P17 to P25.

9. We have considered the rival submissions.

10. It is not in dispute that the claimant had retired as a Managing Director of State Transport Corporation, Coimbatore and he possess a Bachelors Degree in Engineering and a Masters Degree in Business Administration. He is aged about 62 years at the time of the accident. As a result of the accident, he had suffered amputation of the right leg above the knee and 3 toes in the left leg.

11. According to the additional documents produced, there is proof for incurring of medical expenses to the tune of Rs.8,01,782/-, therefore, the award on the ground of medical expenses is increased to Rs.8,45,237/- instead of Rs.43,455/-. The Tribunal has granted a sum of Rs.15,000/- towards attender charges, it is seen that the claimant was an in-patient for more than a month, we feel a sum of Rs.30,000/- towards attender charges would be just and reasonable. The Tribunal has taken the monthly income of the injured claimant at Rs.6,000/- and

arrived at the loss of earning power at Rs.3,60,000/-. We find that the fixation of the notional income at Rs.6,000/- is very low, considering the Educational qualifications of the injured claimant. He possess a Bachelors Degree in Engineering and Masters Degree in Business Administration. Apart from the above, he has vast experience and he has been Managing Director of the State Transport Corporation. We are, therefore, of the considered opinion that even at the lowest estimates he would have earned about Rs.15,000/- per month, in the reemployment after retirement. Thus worked the loss of earning power would be Rs.9,00,000/- instead of Rs.3,60,000/- awarded by the Tribunal. The Tribunal has awarded a sum of Rs.75,000/- towards pain and suffering. Again considering the period of hospitalisation and the nature of the injuries, the award on the head of pain and suffering is increased to Rs.1,15,000/-. Considering the nature of the injuries and the fact that the injured claimant had suffered an amputation at advanced age of 62 and the fact that the said injury would need future treatment also, we award a sum of Rs.3,00,000/- towards future medical expenses.

Thus the modified award is as follows:

S.No.	Heads	Amount
1.	Transport to Hospital	Rs. 15,000/-
2.	Extra Nourishment	Rs. 20,000/-
3.	Damage to clothing	Rs. 500/-
4.	Medical Expenses	Rs. 8,45,237/-
5.	Attender Charges	Rs. 30,000/-
6.	Loss of amenities	Rs. 25,000/-
7.	Pain and suffering	Rs. 1,15,000/-
8.	Loss of expectation of Life	Rs. 50,000/-
9.	Permanent Disability and loss of earning power	Rs. 9,00,000/-
10.	Towards future medical expenses	Rs. 3,00,000/-
	TOTAL	Rs. 23,00,737/-

The same is rounded off to Rs.23,00,000/-.

12. In fine, the Appeal is partly allowed. The award under the head of future medical expenses will not carry interest. The remaining amount of Rs.20,00,000/- will carry interest at 7.5.% per annum from the date of petition till date of payment. There shall be no order as to costs.

13. The Respondent Transport Corporation is directed to deposit the enhanced award amount, less the amount, if any, already deposited before the Tribunal within a period of eight (8) weeks from the date of receipt of a copy of the judgment. On such deposit, the claimant will be entitled to withdraw the compensation.

List of Additional Exhibits marked on the side of the Appellant:

Exhibits	Date	Description of Documents
Ex.P17		B.E.Degree Certificate
Ex.P18	31.03.1981	M.B.A. Degree Certificate
Ex.P19	29.02.2008	Relieving Order from the Respondent
Ex.P20	23.01.2013	Medical Bills with Mediclaim Computation
Ex.P21	28.02.2013	Medical Bills with Mediclaim Computation
Ex.P22	24.07.2013	Medical Bills with Mediclaim Computation
Ex.P23	---	Medical Bills from 13.11.2014 to 30.04.2017
Ex.P24		Discharge Summary
Ex.P25	22.08.2018	Rehabilitation Service Proposal

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

jv
To

1. The III Judge,
The Motor Accidents Claims Tribunal,
Small Causes Court, Chennai.
2. The Section Officer,
VR Section, High Court, Madras-104 (2 Copies)

+1cc to Mr.S.S.Swaminathan, Advocate, S.R.No.70227

+1cc to Mr.V.R.Annagandhi, Advocate, S.R.No.70622

CMA.No.2767 of 2015
and CMP No.16165 of 2018

KJI (Co)
CS/29/11/2018