

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.519 of 2018

G. Subramanian

... Appellant/Petitioner

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam Division 1) Ltd.,
Railway Station New Road,
Kumbakonam - 612 001.

... Respondent/Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 17.10.2014 in M.C.O.P.No.1320 of 2013 on the file of the First Additional Subordinate Judge, Motor Accidents Claims Tribunal, Cuddalore.

For Appellant : Mr.A.N.Viswanatha Rao

For Respondent : Mr.D.Venkatachalam

J U D G M E N T

Challenging the award of compensation dated 17.10.2014 made in M.C.O.P.No.1320 of 2013 by the First Additional Subordinate Judge, Motor Accidents Claims Tribunal, Cuddalore, the claimant/appellant has come up with this Civil Miscellaneous Appeal.

2. According to the claimant, he sustained fracture in his right foot. The Doctor, who was examined as P.W.2 before the Tribunal, had assessed the disability of the claimant at 35% and issued Disability Certificate, marked as Ex.P6, and the Tribunal based on Ex.P.6/Disability Certificate and Ex.P.7, X-ray, has fixed the disability at 25% and awarded a sum of Rs.50,000/- under the head of permanent disability.

3. According to the appellant, the award of compensation shall be Rs.3,000/- per 1% disability, and therefore, the award need to be enhanced.

4. Mr.D.Venkatachalam, the learned counsel appearing for the respondent/ Transport Corporation would submit that for a simple injury sustained in the right foot, the award of compensation itself is very high, and apart from that, the Tribunal has awarded a sum of Rs.20,000/- towards pain and sufferings and a sum of Rs.25,000/- towards loss of amenities and enjoyment in life, without there being any loss of amenities.

5. I have considered the rival contentions made by the learned counsel appearing for both parties.

6. Insofar as the Disability aspect is concerned, a sum of Rs.3,000/- is normally awarded towards per 1% of disability sustained by the injured, and accordingly, by applying the said ratio, the award is enhanced by awarding compensation for disability at Rs.3,000/- per 1%. With regard to the award of compensation under the head "Loss of Amenities and Enjoyment in Life" is concerned, I do agree with the contention of the learned counsel for the respondent that there is no evidence for nature of the injuries, which caused loss of amenities to the claimant for enjoyment in life. Therefore, the compensation awarded under the head "Loss of Amenities and Enjoyment in Life, is hereby, reduced from Rs.25,000/- to Rs.15,000/-. Insofar as the compensation awarded under the other heads is concerned, the same remains unaltered. Thus, the quantum of compensation is modified as under:-

S.No	Heads	Modified amount (Rs.)
1.	Permanent disability (25 X Rs.3,000/-)	75,000.00
2.	Transport to hospital	10,000.00
3.	Extra nourishment	10,000.00
4.	Damage to clothing and article	2,000.00
5.	Medical expenses	45,250.00
6.	Pain and sufferings	20,000.00
7.	Loss of amenities and enjoyment in life	15,000.00
	Total	1,77,250.00

7. The learned counsel appearing for the respondent would submit that the award was passed on 17.10.2014, but, the appellant is chosen to file this appeal with a delay of 888 days. Therefore, the respondent/ Transport Corporation are not liable to pay interest for the delayed period.

8. I find some force in the arguments of the learned counsel appearing for the respondent, as the delay caused on account of the appellant, the respondent cannot be made liable to pay interest. Accordingly, the respondent can deduct the interest for 888 days, while calculating the total compensation. The respondent is directed to deposit

the award amount within a period of eight(8) weeks from the date of receipt of a copy of this order.

9. In the result, this Civil Miscellaneous Appeal is partly allowed with the above modification. No costs.

Sd/-

Assistant Registrar(CS-)

//True Copy//

Sub Assistant Registrar

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To

1. The First Additional Subordinate Judge,
Motor Accidents Claims Tribunal,
Cuddalore.

2. The Section Officer,
V.R. Section, High Court, Madras.(2 copies)

+1cc to Mr.D.VENKATACHALAM, Advocate, S.R.No.17945

+1cc to Mr.A.N.VISWANATHA RAO, Advocate, S.R.No. 18499

C.M.A.No.519 of 2018

GP(CO)
TR(05/06/2018)

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