

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2495 of 2010

Sugunasundari

...Appellant

Vs

Tamil Nadu Government Transport Corporation,
rep by its Managing Director,
(Villupuram Mandalam 2),
Rangapuram,
Vellore.

...Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Award passed by the Motor Accident Claims Tribunal, (Subordinate Judge Court), Arni in M.C.O.P.No.131 of 2007 dated 22.12.2008.

For Appellant : Mr.P.Satheesh Kumar

For Respondent : Mr.K.J.Siva Kumar

JUDGEMENT

The instant appeal has been filed by the claimant seeking enhancement of compensation under the impugned Award dated 22.12.2008 passed by the Motor Accident Claims Tribunal, (Subordinate Judge Court), Arni in M.C.O.P.No.131 of 2007.

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

(i) The Appellant sustained injuries on 08.07.2007 as a result of an accident caused by a bus bearing Registration No.TN-23-N-1221 owned by the respondent Transport Corporation. The Appellant preferred a claim before the Motor Accident Claims Tribunal in M.C.O.P.No.131 of 2007 seeking a compensation of Rs.2,00,000/- for the injuries sustained by him as a result of the accident.

(ii) The Motor Accidents Claims Tribunal, by its Award dated 22.12.2008 in M.C.O.P.No.131 of 2007 directed the respondent Transport Corporation to pay the Appellant, a sum of Rs.35,000/- together with interest at the rate of 7.5%, per annum from the date of claim, till the date of realisation.

(iii) Aggrieved by the Award dated 22.12.2008 passed in M.C.O.P.No.131 of 2007, the instant appeal has been filed by the claimant seeking enhancement of compensation.

3.Heard, Mr.P.Satheesh Kumar, learned Counsel for the Appellant and Mr.K.J.Siva Kumar, learned Counsel for the respondent.

4.According to the learned Counsel for the Appellant, the Appellant was aged 48 years and was working as a Shoe Company Supervisor and was earning a monthly salary of Rs.6000/- at the time of the accident. Due to the accident, the Appellant has sustained a fracture in the left leg which resulted in 30% disability.

5.According to the learned Counsel, the Appellant has produced the disability certificate before the Tribunal which is marked as Ex.P4 before the Tribunal which discloses that the appellant had suffered 30% of disability as a result of the accident.

6.According to the learned Counsel for the Appellant, the Tribunal has erroneously awarded only Rs.30,000/- towards disability compensation. According to him, the Tribunal ought to have awarded Rs.60,000/- as disability compensation calculated at the rate of Rs.2000/- per percentage of disability.

7.Learned Counsel further contended that adequate compensation was not granted towards pain and suffering and extra nourishment charges and also no compensation was awarded towards transportation and attender charges.

8.Per contra, the learned Counsel for the respondent Transport Corporation would submit that the injuries sustained by the Appellant is only a simple injury and that the same will not impair his day to day work. Therefore the compensation awarded by the Tribunal under the impugned Award is a just compensation.

9.This Court, after having considered the materials available on record and after having examined the impugned Award and after hearing the submissions of the

respective Counsels observes the following:

(a) The nature of injuries sustained by the Appellant has not been disputed before the Tribunal by the respondent Transport Corporation. The Appellant has produced the disability certificate which is marked as Ex.P4, disclosing that the Appellant has suffered 30% disability on account of the injuries sustained by him due to the accident. No contra evidence has been produced by the respondent before the tribunal to disprove the disability of the Appellant.

(b) The Appellant was 48 years and was employed as a Shoe Company Supervisor at the time of the accident and in his claim petition, he had stated that he was earning a monthly income of Rs.6,000/-.

(c) The Appellant has also claimed that he was hospitalized for one week and also took regular treatment as an outpatient. No contra evidence has been produced by the respondent before the Tribunal to disprove the claim of the Appellant that he was hospitalized for one week.

(d) The accident had happened on 08.07.2007. Considering the year of the accident, this Court is of the view that the Tribunal ought to have awarded a higher compensation towards 30% disability suffered by the Appellant. In the considered view of this Court, a sum of Rs.60,000/- would be a reasonable compensation for the disability suffered by the appellant by granting Rs.2000/- per percentage of disability. Accordingly, this Court awards Rs.60,000/- towards disability compensation.

(e) The Tribunal has also awarded lesser compensation towards pain and suffering and extra nourishment charges. In the considered view of this Court, a sum of Rs.10,000/- towards pain and suffering and Rs.5000/- towards extra nourishment charges will be an adequate compensation to the Appellant. Accordingly, this Court awards the aforesaid amounts under such heads.

(f) The Tribunal has also not awarded any compensation towards transportation and attender charges and in the considered view of this Court, a sum of Rs.5,000/- towards Transportation costs and a sum of Rs.5000/- towards attender charges is an adequate and reasonable compensation.

10. In the light of the aforesaid observations, the compensation awarded by the Tribunal under the impugned Award is enhanced from Rs.35,000/- to 85,000/- by this Court as detailed hereunder;

Heads	Compensation awarded by the tribunal	Compensation awarded by this Court
30% Disability (Rs.2000/- per percentage)	Rs.30,000/-	Rs.60,000/-
Pain and Sufferings	Rs.2,500/-	Rs. 10,000/-
Extra Nourishment	Rs.2,500/-	Rs. 5,000/-
Transportation and Extra Nourishment	Nil	Rs. 5,000/-
Attender Charges	Nil	Rs. 5,000/-
Total	Rs.35,000/-	Rs.85,000/-

11. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. Consequently, connected Miscellaneous Petition No.1 of 2010 is closed. No Costs.

(ii) The respondent Transport Corporation is directed to deposit the compensation awarded by this Court together with interest at the rate of 7.5%, per annum from the date of claim till the date of realisation, after adjusting the amount, if any, already deposited, within a period of eight weeks from the date of receipt of a copy of this order.

(iii) On such deposit being made, the Appellant is permitted to withdraw the said sum by filing an appropriate application before the Tribunal.
arb/msr

Sd/-

Assistant Registrar (CS ii)

//True Copy//

Sub Assistant Registrar

To

1. Motor Accident Claims Tribunal,
(Subordinate Judge Court), Arni.

2. The Section Officer,
Vernacular Section,
Madras High Court.

+1cc to Mr.P.Satheesh Kumar , Advocate SR.No. 65343

+1cc to Mr.K.J.Siva Kumar , Advocate SR.No. 65086

C.M.A.No.2495 of 2010

ASK(25/10/2018)