

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2018

CORAM:

THE HONOURABLE MS.JUSTICE ABDUL QUDDHOSE

C.M.A.NO.2642 of 2008

B. Chakravarthi

....Appellant/Claimant

Vs

1.K. Azhakar

2.The Managing Director,
Tamilnadu State Transport
Corporation, Coimbatore

...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree passed on 11.7.2007 in MCOP.No.1423 of 2005 on the file of the Motor Accidents Claims Tribunal cum Sub-Judge, Coimbatore.

For Appellants : Mr. R. Babu

For Respondents : Mr. S.V.Vasanthakumar for R2
No Appearance for R1

JUDGMENT

The instant appeal has been filed challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal cum Sub-Judge, Coimbatore in its judgment and decree dated 11.7.2007 in MCOP.No.1423 of 2005.

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

(i) The appellant is the claimant before the Motor Accidents Claims Tribunal. The appellant suffered injuries on account of the accident that took place on 22.8.2004 at Flower Market Road in Coimbatore while travelling in the bus owned by the respondent Transport Corporation.

(ii) The appellant preferred a compensation claim against the respondent Transport Corporation before the Motor Accidents Claims Tribunal cum Sub-Judge, Coimbatore in MCOP.No.1423 of 2005. The Motor Accidents Claims Tribunal, by its judgment and decree dated 11.7.2007 in MCOP.No.1423 of 2005 directed the respondent Transport Corporation to pay the appellant, a sum of Rs.1,57,660/- 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 judgment and decree dated 11.7.2007 in MCOP.No1423 of 2005, the appellant has filed the instant appeal seeking enhancement of compensation.

3. Heard, Mr. R. Babu, learned counsel for the appellant and Mr. S.V.Vasantha Kumar, learned counsel for 2nd respondent.

4. The learned counsel for the appellant submits that the appellant had suffered 90% disability on account of the accident, but the tribunal has awarded only a meagre and inadequate amount of Rs.1,57,660/- as compensation.

5. According to the learned counsel for the appellant, even though, the appellant had claimed a sum of Rs.40,00,000/-, which was restricted to Rs.20,00,000/- as compensation, the tribunal has awarded only a sum of Rs.1,57,662/- as compensation.

6. According to him, having conclusively established that the appellant has suffered 90% disability and his left leg have been amputated on account of the accident, the tribunal ought to have awarded compensation for loss of earning power, future medical expenses and should have also granted a higher sum towards transportation cost, extra nourishment, pain and sufferings and towards permanent disability.

7. Per contra, learned counsel for the 2nd respondent Transport Corporation submits that the compensation awarded by the tribunal is in accordance with the settled principles of law.

8. According to him, no evidence has been placed before the Tribunal by the appellant for enhancement of compensation.

9. This Court, after having considered the materials available on record and after hearing the submissions of the respective counsels, observes the following;

a) The findings of the tribunal are based upon the evidence placed by the appellant before the tribunal.

b) The compensation awarded by the Tribunal under the head permanent disability has been rightly awarded by fixing it at Rs.90,000/- calculated at the rate of 1% per disability. Even though the appellant may be entitled for higher sum under the heads 'transport to hospital' and 'extra nourishment' than what was awarded by the tribunal, the appellant has been adequately compensated by the tribunal which has awarded a sum of Rs.50,000/- towards pain and sufferings.

c) Insofar as the compensation claimed under various other heads, namely, damages to cloth and articles, loss of earning power, future medical expenses, no evidence has been placed by the appellant before the tribunal to establish those claims. The tribunal has rightly disallowed the additional claims that

the appellant has sought for in the instant appeal.

10. Therefore, this Court, does not find any infirmity in the judgment and decree passed by the Motor Accident Claims Tribunal and there is no merit in the contention raised by the appellant. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs.

11. The appellant is permitted to withdraw the entire Award amount together with accrued interest lying to the credit of MCOP.No.1423 of 2005 on the file of the Motor Accident Claims Tribunal, Sub Judge, Coimbatore by filing an appropriate application.

msr

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1. The Motor Accidents Claims Tribunal cum Sub-Judge,
Coimbatore.

2.The Section Officer,
Vernacular Section,
High Court, Madras-104.

+1cc to Mr.S.Gunalan, Advocate SR.NO.56808

+1cc to Mr.S.V.Vasanthakumar, Advocate SR.NO.56612

SJ(CO)

sm:28.9.2018

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