

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2716 of 2018

S.Elango

.. Appellant

Vs.

The Managing Director,
TamilNadu State Transport Corporation,
(Villupuram Division I) Limited,
No.3/137, Salamedu, Vazhdhareddy Post,
Villupuram.

... Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 12.07.2018 made in M.C.O.P.No.1584 of 2015, on the file of the II Additional Subordinate Judge, (Motor Accidents Claims Tribunal), Cuddalore.

For Appellant : Mr.R.Sreedhar

For Respondent : Mr.K.J.Sivakumar

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation awarded by the order dated 12.07.2018 made in M.C.O.P.No.1584 of 2015, on the file of the II Additional Subordinate Judge, (Motor Accidents Claims Tribunal), Cuddalore.

2.The appellant is the claimant in M.C.O.P.No.1584 of 2015, on the file of the II Additional Subordinate Judge, (Motor Accidents Claims Tribunal), Cuddalore. He filed the said claim petition, claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by him in the accident that took place on 14.04.2013.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to the rash and negligent driving by the driver of the bus belonging to the respondent-Transport Corporation and directed the respondent-Transport Corporation to pay a sum of Rs.2,46,000/- as compensation to the appellant.

4. Not being satisfied with the amounts awarded by the Tribunal, the appellant has come out with the present appeal, seeking enhancement of the same.

5. The learned counsel appearing for the appellant contended that the medical board has certified 15% disability to whole body. The appellant sustained grievous injuries as fracture in his thigh bone which causes great discomfort to him and it was also malunited. The Tribunal ought to have applied multiplier method for awarding compensation for disability. The Tribunal ought to have awarded a sum of Rs.20,000/- each for transportation and attender charges, instead of Rs.5,000/- each.

6. Per contra, Mr. K. J. Sivakumar, learned counsel appearing for the respondent-Transport Corporation contended that the medical board has certified that the appellant has suffered only 15% disability for whole body. Considering the report of the medical board, the Tribunal has awarded compensation of Rs.45,000/- by granting Rs.3,000/- per percentage of disability. The appellant did not suffer any functional disability and he is not entitled to compensation by applying multiplier method. The amount awarded by the Tribunal under different heads are just compensation and prayed for dismissal of the appeal.

7. Heard the learned counsel appearing for the appellant as well the learned counsel appearing for the respondent-Transport Corporation and perused all the materials available on record.

8. The contention of the learned counsel appearing for the appellant is that the Tribunal ought to have applied multiplier method for awarding compensation. According to the learned counsel for the appellant, due to malunited fracture of thigh bone, the appellant is put to great discomfort. It is not the case of the appellant that due to injuries sustained by him, he is unable to do any work as he was doing earlier. It is also not the case of the appellant that due to the injuries, there is loss of earning capacity. From the materials on record, it is seen that the appellant was referred to medical board and after examining the appellant, the medical board has certified that disability of the appellant for whole body is 15%. The Tribunal considering the entire materials and evidence, did not apply multiplier method and awarded compensation at the rate of Rs.3,000/- per percentage of disability. Hence, there is no reason for adopting multiplier method for awarding compensation for disability. The amounts awarded by the Tribunal under different heads are just compensation and there is no reason for enhancement of compensation.

9. In the result, this Civil Miscellaneous Appeal is dismissed and the compensation awarded by the Tribunal at Rs.2,46,000/- is hereby confirmed. The respondent-Transport Corporation is directed to deposit the award amount with interest, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this order. On such deposit, the appellant is permitted to withdraw the award amount along with accrued interest and costs, after adjusting the amount, if any, already withdrawn. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

krk/gsa

To

The II Additional Subordinate Judge,
Motor Accidents Claims Tribunal,
Cuddalore.

Copy to:

The Section Officer,
VR Section,
High Court, Madras.

+1cc to Mr.R.Sreedhar, Advocate sr.no.80362

+1cc to Mr.K.J.Sivakumar, Advocate sr.no.80381

CMA.No.2716 of 2018

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