



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2018

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD) .No.1331 of 2013

Imkathulla

... Appellant/Petitioner

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Bye Pass Road,
Madurai.

... Respondent/Respondent

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree made in MCOP No.271 of 2012 on the file of Motor Accident Claims Tribunal, IV Additional District Court, Tirunelveli, dated 31.10.2012.

For Appellant : Mr.T.Selvakumaran

For Respondent : Mr.M.Kayalarasan

JUDGMENT

Assailing over the judgment and decree passed by the Motor Accident Claims Tribunal, IV Additional District Court, Tirunelveli in M.C.O.P.No.271 of 2012 dated 31.10.2012, the present civil miscellaneous appeal has been filed.

2. Heard the learned Counsel appearing on either side and perused the records carefully.

3. It is a case of injury and the claimant/injured, being dissatisfied with the compensation of Rs.1,27,190/- awarded by the tribunal, is before this Court, seeking enhancement. According to the appellant/claimant, he was aged about 31 years and has sustained 35% of disability in the accident. However, the tribunal has taken 35% and awarded only a meagre sum of RS.50,000/- and therefore, he prays for enhancement. It is his further case that the tribunal ought to have awarded a sum of



Rs.1,00,000/- towards pain and suffering, however, a meagre sum was awarded under that head.

4. It is seen from the records that the appellant/claimant, in consequence to the accident, sustained grievous injuries; fractures; and had also underwent surgery. From the Doctor's evidence, it is seen that his disability was assessed as 35% and the tribunal has taken 34%. For the said disability, a sum of Rs.50,000/- was awarded by the tribunal, which, in my considered opinion, is very meagre. The date of accident is 19.02.2012. In my opinion, it would be appropriate to give Rs.3000/- per percentage of disability, as per the judgment rendered by this Court in the decision reported in **2013 (2) TN MAC 583**, by fixing the disability at 35%. Therefore, the compensation under this head is enhanced from Rs.50,000/- to Rs.1,05,000/- (35% X Rs.3,000/-), i.e., Rs.55,000/- is enhanced towards disability.

5. Admittedly, at the time of accident, the appellant/claimant was aged about 31 years and this Court, going by the facts of the case and after perusing the entire records, is of the view that the pain and sufferings faced by the appellant/claimant is very high. However, the tribunal has awarded a sum of Rs.15,000/- towards pain and sufferings, which, in my considered opinion, is very meagre and therefore, this Court is inclined to enhance the same. In result, the compensation towards pain and sufferings is enhanced from Rs.15,000/- to Rs.50,000/-, i.e., Rs.35,000/- is enhanced towards pain and sufferings.

6. Other than these two heads, the compensation awarded by the tribunal is reasonable and therefore, the same stands confirmed.

7. In result, this civil miscellaneous appeal is partly allowed and

- the compensation awarded by the tribunal is enhanced and the total award amount is fixed at Rs.2,71,700/- [Rs.1,81,700/- awarded by the tribunal + Rs.90,000/- enhanced by this Court towards disability & pain and sufferings].
- The respondent/Transport Corporation is directed to deposit 70% of the award amount i.e. a sum of Rs.1,90,190/- [Rupees One Lakh Ninety Thousand One Hundred and Ninety only] towards compensation with interest @ 7.5% per annum and costs, less the sum already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment.

On such deposit, the appellant/claimant is permitted to withdraw the same with accrued interests and



costs, less the amount already withdrawn by him, if any, by filing proper application before the Tribunal.

- There shall be no order as to costs.

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Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar (CS-I)

To

1. The IV Additional District Judge,
Motor Accident Claims Tribunal,
Tirunelveli,
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.T.SELVAKUMARAN, ADVOCATE IN SR No. 72441

RM

TE/RP/SAR-1 : 10/08/2018 : 3P/5C

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