

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.12.2019

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.1126 of 2013

S.Syed Ajeem

...

Appellant /Petitioner

Vs

Tamil Nadu State Transport Corporation Limited,
Rep. By its Managing Director,
Rangapuram,
Vellore.

....

Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Article 173 of Motor Vehicles Act 1988, against the Judgment and decree dated 20.02.2012 in MCOP. No.31 of 2010 passed by the Motor Accidents Claims Tribunal/Sub Court, Arni.

For Appellant : Mr.P.Satheesh Kumar

For Respondent : Mr.S.V.Vasantha Kumar

J U D G M E N T

This appeal has been filed by the appellant/claimant seeking enhancement of the compensation awarded by the Motor Accidents Claims Tribunal/Sub Court, Arni, in MCOP. No.31 of 2010 dated 20.02.2012 for enhancement of compensation.

2. It is the case of the appellant/claimant that on 19.11.2009 at about 7.30 P.M., the appellant/claimant was traveling in an Auto bearing Registration No.TN 23 AE 2768 proceeding from Bagayam to Katpadi direction, near Makkan Junction, at the time, the bus was driven by the driver of a passenger bus bearing Registration No.TN 23 N 1531 belonging to the respondent, in a rash and negligent manner, dashed against the right side of the Auto. The appellant being a passenger in the Auto has sustained multiple injuries all over his body. Thereafter, the appellant was admitted in the Government Hospital at Vellore and Chennai as in-patient. Hence, the appellant has filed a claim petition before the Tribunal against the respondent, claiming a sum of Rs.4,00,000/- as compensation.

3. In order to prove his case, the appellant has examined himself as P.W.1 and the Doctor (P.W.2) and marked as many as 5 documents viz., Exs.P1 to P5. On the side of the respondent, one witness was examined and one evidence was adduced. After analyzing the evidences, the Tribunal has come to the conclusion that the accident had taken place due to the rash and negligent

driving of the driver of the Bus. Therefore, the Tribunal has awarded a sum of Rs.32,500/- as compensation to the claimant.

4. Not being satisfied with the quantum of compensation awarded by the Tribunal, the appellant has come forward with this appeal before this Court.

5. The learned counsel for the appellant would submit that the award of Rs.32,500/- by the Tribunal is very meager and the same has been passed without considering the Doctor's evidence wherein he has suffered a crush injury leading to removal of a little finger. The Tribunal has reduced the disability from 30% to 15% and awarded a sum of Rs.22,500/- is unfair. The appellant is a carpenter and earning a sum of Rs.7,500/- per month and he is the sole breadwinner of his family. Hence, the learned counsel for the appellant prays for enhancement of the compensation.

6. Per contra, the learned counsel appearing for the respondent / Tamil Nadu State Corporation Limited would submit that the respondent had filed a counter and denying all the averments made by the appellant in the claim petition and the respondent has stated that the accident occurred in the signal itself was untrue. The appellant has lodged a complaint against the respondent with a delay of three days which creates a doubt. The Tribunal has awarded a sum of Rs.32,500/- is excessive and the learned counsel prays to dismiss the appeal.

7. Heard the learned counsel for the appellant as well as the respondent and also perused the available materials on record before this Court.

8. From the materials on record, it seen that the Tribunal reduced the percentage of disability as assessed by the Doctor viz., P.W.2 from 35% to 15%. The appellant suffered 35% disability due to the injuries sustained by him in the accident and the reason given by the Tribunal for reducing the percentage of disability is not correct. Hence, the Tribunal has awarded a sum of Rs.22,500/- for permanent disability and this Court is inclined to modify the same at Rs.30,000/-. The Tribunal has awarded a sum of Rs.5,000/- per month towards pain and suffering is meager. Considering the nature of injuries sustained by the appellant, the same is hereby enhanced to Rs.15,000/-.

9. The appellant has taken treatment in various hospitals and has spent more for transportation. Hence, this Court is inclined to grant a sum of Rs.5,000/- towards transportation and attender charges. The sum of Rs.5,000/- awarded towards extra nourishment is hereby confirmed.

10. The compensation awarded by the Tribunal is modified as follows:

Sl. No.	Description	Amounts awarded by Tribunal (Rs.)	Amounts awarded by this Court (Rs.)

1	Permanent disability	22,500/-	30,000/-
2	Transportation and Attender charges	----	5,000/-
3	Extra nourishment	5,000/-	5,000/-
6	Pain and sufferings	5,000/-	15,000/-
	Total	32,500/-	55,000/-

11. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.32,500/- is hereby enhanced to Rs.55,000/-, with interest at the rate of 7.5% per annum from the date of petition till the date of realization. The respondent is directed to deposit the enhanced award amount with interest, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the appellant is permitted to withdraw the enhanced award amount, along with interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

Rli

To

The Motor Accident Claims Tribunal,
Sub Judge, Arni.

Copy To

The Section Officer,
V.R. Section, High Court,
Madras.

+1cc to Mr.P.Satheesh Kumar, Advocate, S.R.No. 101099

C.M.A.No.1126 of 2013