



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 13.06.2019	Pronounced on 25.07.2019
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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.4134 of 2005

A.Periyasamy

... Appellant

vs.

The Managing Director
Metro Transport Corporation Ltd.,
Pallavan Salai, Chennai - 2.

... Respondents

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 28.02.2005 made in M.C.O.P.No.347 of 2003 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court-III, Poonamallee.

For appellant : Mr.J.Mahalingam

For respondent : Mr.S.Sivakumar

JUDGMENT

This appeal has been filed by the claimant challenging the award dated 28.02.2005 passed by the Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court-III, Poonamallee (for brevity, "the Tribunal"), in M.C.O.P.No.347 of 2003, whereby the Tribunal awarded a sum of Rs.1,06,000/- as compensation to the appellant for the injuries sustained by him in a motor vehicle accident.

2.The facts of the case are as follows:

On 19.09.2002 at about 8.30 a.m, the appellant/claimant was boarding a bus bearing Registration No.TN-01-N-1667 (Route No.18G), belonging to the respondent Transport Corporation, at Kasi Theatre Bus stop, Chennai. At that time, on a whistle given by the conductor, the driver suddenly moved the bus rashly and negligently, as a result of which, the appellant fell down and struck between the bus and Auto Rickshaw, which was parked behind and he was dragged to certain distance. Due to the said



impact, he sustained fractures in left hand, injuries in the right and left elbows and serious multiple injuries all over the body, for which, he filed a claim petition claiming a compensation of Rs.2,50,000/-. The said claim was resisted by the Transport corporation by filing a detailed counter. The Tribunal, after examining the oral and documentary evidence, awarded the total compensation of Rs.1,06,000/- with interest at 9% p.a. from the date of petition. Being dissatisfied with the quantum so awarded, the appellant/claimant has preferred this appeal seeking enhancement of the same.

3.The learned counsel for the appellant/claimant submitted that considering the nature of injuries and the percentage of disability suffered by the appellant/claimant, the sum of Rs.40,000/- awarded by the Tribunal under the head "disability" is on the lower side. He further submitted that no amount was awarded under the heads "loss of future medical expenses", and "inconvenience, hardship, discomfort and mental stress in life". He also submitted that the amounts awarded under other heads are inadequate and the same have to be enhanced.

4.Per contra, the learned counsel appearing for the respondent Transport Corporation submitted that the Tribunal, after scrutinising the evidence let-in by the parties, awarded the just compensation, which does not call for any interference by this Court.

5.Heard both sides and perused the records.

6.The law with respect to the grant of compensation in injury cases is well-settled. The injured is entitled to pecuniary as well as non-pecuniary damages. Pecuniary damages also known as special damages are generally designed to make good the pecuniary loss which is capable of being calculated in terms of money whereas non-pecuniary damages are incapable of being assessed by arithmetical calculations. The pecuniary or special damages, generally include the expenses incurred by the claimants on his treatment, special diet, conveyance, cost of nursing/attending, loss of income, loss of earning capacity and other material loss, which may require any special treatment or aid to the insured for the rest of his life. The general damages or the non-pecuniary loss include the compensation for mental or physical shock, pain, suffering, loss of amenities of life, disfiguration, loss of marriage prospects, loss of expected or earning of life, inconvenience, hardship, disappointment, frustration, mental stress, dejection and unhappiness in future life, etc. The above list is not exhaustive in nature and there may be special or additional circumstances depending on the facts in each case.

7.In the present case, the appellant/claimant himself



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examined as P.W.1, who deposed in his evidence that he was 45 years and was earning Rs.200/- per day, as a coolie; and in the accident, he suffered bone fractures, injuries in elbows and multiple injuries all over the body, due to which, the appellant/claimant finds it difficult to move and do the work by using his left hand. P.W.2/Doctor assessed the disability of the appellant/claimant at 40% and issued Ex.P5 disability certificate to that effect. Ex.P6 is X Ray and Ex.P7 is the medical report. On considering those oral and documentary evidence, the Tribunal has awarded Rs.40,000/- towards disability, which, as rightly pointed out by the learned counsel for the appellant/claimant appears to be on the lower side. Hence, this Court deems it appropriate to enhance the same to Rs.60,000/- by awarding Rs.1,500/- to each percentage of disability, which would meet the ends of justice.

8.Further, the Tribunal has awarded Rs.40,000/- towards pain and suffering, which, having regard to the gravity of the injuries sustained by the appellant/claimant appears to be fair and just and does not call for any interference by this Court.

9.That apart, the Tribunal has taken the monthly income of the appellant/claimant at Rs.2,400/- (Rs.80/- per day) and awarded Rs.24,000/- towards loss of income during the treatment period of 10 months, which, in the considered opinion of this Court, is just and reasonable and the same is hereby confirmed. However, the Tribunal has awarded only a meagre sum of Rs.2,000/- towards extra nourishment and transport charges, which has to be enhanced to Rs.10,000/- in the facts and circumstances of the case.

10.According to the appellant/claimant, no amount was awarded towards medical expenses for present and future. On a perusal of the records reveal that the appellant/claimant was initially taken treatment at ESI Hospital, K.K.Nagar, Chennai and thereafter at Bone Setting Hospital, Uthandranpalayam, Chengalpattu. Taking note of the nature of the injuries sustained by the appellant/claimant and the period of treatment undertaken by him, this Court is inclined to award a sum of Rs.16,000/- towards medical expenses.

11.In view of the above discussion, the compensation awarded by the Tribunal is hereby enhanced to Rs.1,50,000/- with interest at 9%p.a., the break-up details of which read as follows:

Disability	-	Rs. 60,000/-
Pain and suffering	-	Rs. 40,000/-
Loss of income during treatment period	-	Rs. 24,000/-



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Extra nourishment and Transport charges	-	Rs. 10,000/-
Medical expenses	-	Rs. 16,000/-
		
Total		Rs.1,50,000/-
		

12.In fine, this appeal is partly allowed. No costs. The respondent Transport Corporation is directed to deposit the entire compensation amount with interest and costs, as awarded by this Court, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the said sum to the Savings Bank Account of the claimant/appellant herein, through RTGS, thereafter.

Sd/-
Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

Mra/rk

To

The Motor Accidents Claims Tribunal,
The Additional District Judge,
Fast Track Court-III,
Poonamallee.

Copy To

The Section Officer,
V.R.Section,
Madras High Court,
Chennai 104.

+1cc to Mr.J.Mahalingam, Advocate SR.No.63918

+1cc to Mr.S.Sivakumar, Advocate SR.No.64036

C.M.A.No.4134 of 2005

AD (CO)
GMY (18/08/2021)