

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.857 of 2008

S.Deepakkumar

... Appellant

Vs

The Tamil Nadu State Transport Corporation Limited
Salem, rep.by its Managing Director,
Salem.

... Respondent

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 29.11.2007 made in MCOP No.469 of 2006 on the file of the Motor Accidents Claims Tribunal (I Additional Subordinate Judge), Erode.

For Appellant : Mr.K.Govi Ganesan

For Respondent : Mr.N.Anand

JUDGMENT

The case in brief, is as follows:

On 18.02.2006 at about 01.30 p.m., the appellant was riding the motorcycle bearing Reg.No.TN-33-AA-0069 in the Sankari - Erode Road from South to North direction. When he reached near Veppadai Agri Bank, the bus belonging to the respondent, bearing Reg.No.TN-30-N-0064, driven by its driver in a rash and negligent manner, came on the wrong side of the road and dashed against the appellant. Due to the said impact, the appellant sustained grievous injuries. The appellant filed a claim petition before the Tribunal claiming a sum of Rs.3,00,000/- as compensation. Considering the materials and evidence available on record, the Tribunal awarded a sum of Rs.1,38,604/- with interest at the rate of 7.5% per annum from the date of petition, as total compensation.

2.Challenging the same, the appellant/claimant has filed the present Civil Miscellaneous Appeal for enhancement of compensation.

3.The learned counsel for the appellant /claimant has submitted that the Tribunal has awarded a meagre compensation, even though the fact remained that the appellant was taking

treatment for nearly 17 months and undergoing two surgeries. It is also submitted that the Tribunal has not awarded any amount towards loss of earning power.

4.The learned counsel for the respondent Transport Corporation has submitted that the Tribunal has correctly considered the materials and evidence available on record and correctly awarded the compensation, which is just, fair and reasonable and hence the judgment of the Tribunal does not require any interference in the hands of this Court.

5.Heard the learned counsel for the appellant / claimant and the learned counsel for the respondent and perused the materials available on record carefully and meticulously.

6.In respect of loss of earning during the treatment period, the Tribunal has awarded a sum of Rs.10,000/-. It is seen that the injured was admitted on the date of accident, ie., on 18.02.2006 and on 20.02.2006, an operation was done and further on 02.03.2006, another operation was done for right tibia. Only on 14.03.2006 he was discharged and thereafter, he was not able to go to the job for about an year. Hence, it would be appropriate to award a sum of Rs.24,000/- towards this head, at the rate of Rs.2,000/- per month. Hence the amount awarded by the Tribunal towards loss of earning during the treatment period stands modified to Rs.24,000/-. Because of the fracture of right leg, the claimant is unable to walk, climb and do any work as before. Considering the same, it would be appropriate to award a sum of Rs.40,000/- towards loss of amenities. Further, awarding a sum of Rs.40,000/- towards future medical expenses and enhancing the amount awarded towards pain and suffering from Rs.10,000/- to Rs.16,000/- would meet the ends of justice. The amounts awarded by the Tribunal towards medical expenses at Rs.38,604/- based upon Exs.P8 to 12 and Rs.5,000/- towards extra nourishment and Rs.75,000/- towards 35% disability and grievous injuries, does not require any interference.

7.The details of the modified compensation are as follows:

HEAD	AMOUNT (Rs.)
Medical expenses	38,604/-
Extra nourishment	5,000/-
Loss of earning during the treatment period	24,000/-
Permanent disability	75,000/-
Pain and suffering	16,000/-
Loss of amenities	40,000/-
Future medical expenses	40,000/-

TOTAL...

2,38,604/-
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Thus, the appellant / claimant is entitled to the modified compensation of Rs.2,38,604/-. It is made clear that only for the compensation of Rs.1,38,604/- awarded by the Tribunal, the interest rate of 7.5% per annum shall be calculated from the date of claim petition. For the enhanced amount of Rs.1,00,000/-, the interest rate of 7.5% shall be calculated from the date of filing of this appeal.

8.The Civil Miscellaneous Appeal is allowed to the extent indicated above. No costs.

9.The respondent Transport Corporation is directed to deposit the modified compensation as ordered above, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant / claimant shall withdraw the same, on making proper application before the Tribunal.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

KM
To

1.The Motor Accidents Claims Tribunal
(I Additional Subordinate Judge), Erode.

2.The Section Officer, सतयमेव जयते
VR Section, Madras High Court.

+1 CC to Mr.K.Govi Ganesan, Advocate sr 71747

+1 CC to Mr.N.Anand, Advocate sr 72645.

C.M.A.No.857 of 2008

AD(CO)
SP(08/06/2020)