

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No. 1106 of 2015

T. Ramesh

.. Appellant/ Petitioner

Vs.

1.The Managing Director,
Metropolitan Transport Corporation Limited,
(Villupuram Division III) Ltd.,
Rangapuram,
Vellore 632 009.

2.The Managing Director,
Tamil Nadu State Transport Corporation,
(Salem Division - II),
Bharathi Nagar,
Dharmapuri.

.. Respondents/ Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 15.10.2014, made in M.C.O.P.No.64 of 2012, on the file of the II Additional District and Sessions Court, (Motor Accident Claims Tribunal), Ranipet, Vellore District.

For Appellant : Mr. M. Sivakumar

For Respondent : Mr. K.J. Sivakumar (For R1)

Mr. D. Venkatachalam (For R2)

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant-claimant, seeking enhancement of the compensation granted by the award dated 15.10.2014, made in M.C.O.P.No.64 of 2012, on the file of the II Additional District and Sessions Court, (Motor Accident Claims Tribunal), Ranipet, Vellore District.

2.The appellant-claimant filed M.C.O.P.No.64 of 2012, on the file of the II Additional District and Sessions Court, (Motor Accident Claims Tribunal), Ranipet, Vellore District, claiming a

sum of Rs.10,00,000/- as compensation for the injuries sustained by him in the accident that took place on 31.07.2010.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by the driver of the bus belonging to the 2nd respondent-Transport Corporation and directed the respondent-Transport Corporation to pay a sum of Rs.5,97,600/- as compensation to the appellant.

4.Not being satisfied with the amount awarded by the Tribunal in the award dated 15.10.2014, made in M.C.O.P.No.64 of 2012, the appellant has come out with the present appeal.

5.Learned counsel appearing for the appellant contended that the appellant was working as a Carpenter and earning a sum of Rs.7,500/- per month. The accident is of the year 2010. The Tribunal has fixed a meager sum of Rs.3,000/- per month as the notional income. At the time of accident, the appellant was aged 19 years. The Tribunal erred in adopting the multiplier '16', against the correct multiplier '18' as per the judgment reported in 2009 (2) TNMAC 1 SC Supreme Court [Sarla Verma & others vs. Delhi Transport Corporation & another]. P.W.2 - Doctor assessed disability of the appellant as 80%. The Tribunal without taking into consideration the evidence of P.W.2 Doctor, erroneously reduced the same to 60% and awarded meager amount towards disability. The Tribunal ought to have awarded compensation towards loss of marriage prospects and future medical expenses. The amounts awarded by the Tribunal under other heads are meagre and prayed for enhancement of the compensation.

6.Mr.K.J.Sivakumar, learned counsel appearing for the 1st respondent-Transport Corporation contended that the vehicle involved in the accident does not belong to the 1st respondent-Transport Corporation, but it belongs to the 2nd respondent-Transport Corporation and hence, prayed for dismissal of the appeal as against the 1st respondent.

7.Per contra, Mr. D. Venkatachalam, learned counsel appearing for the 2nd respondent-Transport Corporation contended that the Tribunal, considering the nature of injuries and the deposition of the Doctor examined as P.W.2, rightly reduced the percentage of disability to 60% by giving valid reasons, and awarded compensation towards disability, which is not meager. The amounts awarded by the Tribunal under other heads are not meager. The appellant has not made out any case for enhancement of the compensation and prayed for dismissal of the appeal.

8.Heard the learned counsel appearing for the appellant, 1st

respondent as well as the 2nd respondent-Transport Corporation and perused the materials available on record.

9.From the materials on record, it is seen that the appellant suffered crush injury in the left thigh, knee and leg and fracture of the tibia and left leg was amputated. P.W.2 Doctor assessed disability of the appellant as 80%. To substantiate the same, Ex.P5 - disability certificate has been marked by the appellant. The Tribunal considering the nature of injury, amputation of leg, nature of work, adopted the multiplier method rightly, but reduced the percentage of disability to 60%. The reason given for reducing the percentage of disability is not correct. The appellant is entitled to compensation for 80% of disability. It is the contention of the appellant that he was a Carpenter and due to the injuries, he lost his earning capacity. The appellant has not produced any document to prove his avocation and income. The accident is of the year 2010. The monthly income fixed by the Tribunal at Rs.3,000/- is very meager. Considering the age and nature of work, a sum of Rs.6,500/- is fixed as monthly income. The appellant is aged 19 years at the time of accident. The Tribunal has erroneously applied the multiplier '16'. The correct multiplier applicable is '18'. Thus, the amount granted by the Tribunal towards future earning capacity is modified to Rs. 11,23,200/- [Rs.6,500/- x 12 x 18 x 80%]. Due to the accident, the appellant has taken treatment in C.M.C. Hospital, Vellore from 01.08.2010 to 29.08.2010. The Tribunal has granted a meager amount towards attender charges and extra nourishment. Considering the period of treatment and nature of injuries, this Court awards a sum of Rs.20,000/- towards attender charges and a sum of Rs.30,000/- towards extra nourishment. The amounts granted by the Tribunal under other heads are just and reasonable and hence, they are confirmed.

10.It is well settled that the Tribunal and the Courts have to award just compensation. Though the claimant has claimed lesser compensation, the Courts have power to grant just compensation more than the amount claimed by the claimant. Thus, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Medical bills	2,12,000/-	2,12,000/-	Confirmed
2.	Pain and suffering	20,000/-	20,000/-	Confirmed

3.	Extra nourishment	10,000/-	30,000/-	Enhanced
4.	Transportation	5,000/-	5,000/-	Confirmed
5.	Attender charges	5,000/-	20,000/-	Enhanced
6.	Disability	3,45,600/-	11,23,200/-	enhanced
	Total	5,97,600/-	14,10,200/-	Enhanced by Rs.8,12,600/-

11. In the result, the appeal is allowed and amount awarded by the Tribunal at Rs.5,97,600/- is enhanced to Rs.14,10,200/- along with interest and costs. The 2nd respondent-Transport Corporation is directed to deposit the enhanced award amount along with interest and costs, within a period of twelve weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No. 64 of 2012. On such deposit, the appellant/claimant is permitted to withdraw the enhanced award amount, now determined by this Court, along with interest and costs, less the amount already withdrawn if any, by filing necessary application before the Tribunal. The appellant is directed to pay the court fee, if any, on the enhanced amount of Rs.8,12,600/-. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

gsa
To

1.The II Additional District and Sessions Judge,
(Motor Accident Claims Tribunal),
Ranipet,
Vellore District.

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

+lcc to Mr.C.Prabhakaran , Advocate SR.No. 103574
+lcc to Mr.D.Venkatachalam , Advocate SR.No. 103818
+lcc to Mr.K.J.Siva kumar , Advocate SR.No. 104321

C.M.A.No.1106 of 2015

A.SK(26/08/2020)