

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2019

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

CMA.No.1382 of 2013

R.Franklin Shelly

... Appellant/Petitioner

.Vs.

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

... Respondent/Respondent

PRAYER:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 25.01.2010 in M.C.O.P.No.4853 of 2003 on the file of the Motor Accidents Claims Tribunal/Additional District and Sessions Judge, IV Fast Track Court, Chennai.

Appellant : Mrs.M.Malar
for Mrs.A.Subadra

Respondent : Mr.K.S.Suresh

JUDGMENT

The appellant is the claimant in M.C.O.P.No.4853 of 2003 on the file of the Motor Accident Claims Tribunal/Additional District and Sessions Judge, IV Fast Track Court, Chennai. He filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 praying to award compensation of Rs.10,00,000/- for the injuries sustained by him in a road accident on 26.11.2002.

2. The case of the claimant in nutshell is as follows:

On 26.11.2002, the claimant was travelling as a passenger in a Metropolitan Transport Corporation bus bearing Registration No. TN 01 N 1369 along Peter's Road, Royapettah and at about 09.20 hours, the driver of the bus drove the bus rashly and negligently and applied sudden brakes, as a result whereof, the claimant sustained injuries all over his body.

3. According to the claimant, the rash and negligent driving of the driver of the bus belonging to the Metropolitan Transport Corporation was the cause of the accident and therefore, they are liable to pay compensation.

4. The learned Additional District and Sessions Judge/ Motor Accidents Claims Tribunal, IV Fast Track Court, Chennai after analysing the evidence on record, awarded a compensation of Rs.1,76,300/- together with interest at the rate of 7.5% per annum. Not being satisfied with the quantum of compensation awarded by the Tribunal, the claimant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Heard Mrs.M.Malar, learned counsel appearing for the appellant and Mr.K.S.Suresh, learned counsel appearing for the respondent.

6. A perusal of the discharge summary (Ex.P3) shows that the claimant was admitted as an in-patient at Royapettah Hospital on 26.11.2002 and discharged on 09.01.2003 and he had sustained the following injuries:

- i. tenderness over the pubic region
- ii.hip movement is painful.
- iii.Compression tact and distraction tent
- iv.urine bladder sustained injury

It is also seen that the appellant/claimant had undergone the following treatments:

"Abdomen opened and bladder opened 700 m.l. Of clear urine drained. Foley cathra introduced thro pelvis and guided into bladder tear in the cathra approximated urinary unit. SPC done. Urinary 22 foley's thro separate wound."

7. The appellant/claimant was working as a Computer Operator and was aged 24 years. Since the disability of 40% assessed by the doctor cannot be for the whole body, 10% disability is taken up for calculating "loss of earning capacity". The proper multiplier to be adopted in the instant case is 18 as per the decision rendered in Sarla Verma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121. Since no proof showing the actual income of the claimant is filed, the notional monthly income is fixed at Rs.4,500/-, considering the year of the accident. On account of the accident, the claimant would not have been in a position to attend to his regular work for atleast six months and therefore, a sum of Rs.27,000/- (Rs.4,500/- X 6 months) is awarded towards loss of income.

Loss of earning capacity

= Rs.4,500/- x 12 x 18 x 10/100
= Rs.97,200/-

8. The award passed by this Court under various heads is extracted hereunder:

S.No.	Head	Amount granted
1.	Loss of income	Rs. 27,000/-
2.	Loss of earning capacity	Rs. 97,200/-
3.	Pain and sufferings	Rs. 20,000/-
4.	Transportation	Rs. 5,000/-
5.	Extra nourishment	Rs. 5,000/-
6.	Attender's charges	Rs. 2,000/-
7.	Loss of amenities	Rs. 15,000/-
8.	Medical expenses	Rs. 24,287/-
9.	Damages to cloth	Rs. 500/-
10.	Future medical expenses	Rs. 10,000/-
Total		Rs.2,05,987/-

9. Thus, the compensation awarded by the Tribunal is enhanced from Rs.1,76,300/- to Rs.2,05,987/- which would carry interest at the rate of 7.5% per annum.

10. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs.

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.1,76,300/- to Rs.2,05,987/-.

(iii) The appellant/claimant is directed to pay the court fee for the enhanced compensation amount, if any, within three weeks from the date of this orders and the Registry is directed to draft the decree only after the receipt of Court fee.

(iv) The respondent/Metropolitan Transport Corporation Limited is directed to deposit the enhanced compensation amount i.e., Rs.2,05,987/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.4853 of 2003 on the file of the Motor Accident Claims Tribunal/Additional District and Sessions Judge, IV Fast Track Court, Chennai within a period of six weeks from the date of receipt of a copy of this order.

(v) On such deposit being made, the appellant/claimant is at liberty to withdraw the same after following due process of law.

Sd/-
Assistant Registrar(AD I MDU)

//True Copy//

Sub Assistant Registrar

mtl

To

The Motor Accidents Claims Tribunal,
The Additional District and Sessions Judge,
IV Fast Track Court, Chennai.

Copy To
The Section Officer,
VR Section, High Court,
Madras-104.

+1cc to Mr.K.S.Suresh, Advocate in sr.no.95377
+1cc to Ms.M.Malar, Advocate in sr.no.95882

C.M.A.No.1382 of 2013

MR(CO)
CS/31/07/2020