



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1582 of 2015

E.Jayaraman

.. Appellant

Vs.

1.Tamilnadu State Transport Corporation,
Rep. by its Managing Director, Div-1 Madurai.

2.The Managing Director,
Tamilnadu State Transport Corporation, Kumbakonam,
Div-3 Karaikudi,
(2nd respondent is impleaded as Respondent Vide
M.P.No.802/2010 on 13.07.2010) .. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 26.09.2012 made in M.C.O.P.No.4936 of 2001 on the file of the Motor Accident Claims Tribunal, II Small Causes Court, Chennai.

For Appellant : Mr.K.Varadha Kamaraj
For R2 : Mr.V.S.Vijay Vellaiappan

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant/claimant seeking enhancement of compensation granted by the Tribunal in the award dated 26.09.2012 made in M.C.O.P.No.4936 of 2001 on the file of the Motor Accident Claims Tribunal, II Small Causes Court, Chennai.

2.The appellant is claimant in M.C.O.P.No.4936 of 2001 on the file of the Motor Accident Claims Tribunal, II Small Causes Court, Chennai. He filed the said claim petition claiming a sum of Rs.15,00,000/- as compensation for the injuries sustained by him in the accident that took place on 02.01.2001. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the bus belonging to the 2nd respondent/Transport Corporation and directed the 2nd respondent/Transport Corporation to pay a sum of Rs.13,37,000/- as compensation to the appellant



and dismissed the claim petition against the 1st respondent/Transport Corporation. Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

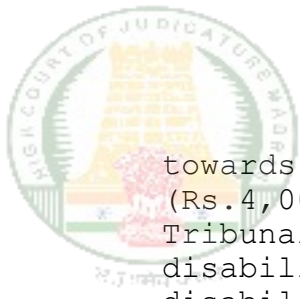
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3. The learned counsel appearing for the appellant contended that the Tribunal erred in fixing monthly income of the appellant at Rs.4,000/- without considering the evidence of appellant and Ex.P22 - salary certificate. The Tribunal ought to have fixed 100% loss of earning power by considering the nature of injuries sustained by the appellant. The Tribunal failed to grant any enhancement towards future prospects. PW2/Doctor assessed the disability of the appellant at 60% for amputation of leg and 70% for fracture of right leg. The Tribunal erred in fixing the same to 50% respectively. The appellant was aged 24 years and the Tribunal ought to have applied multiplier '18' instead of '17'. The amounts awarded by the Tribunal towards future medical expenses, extra nourishment, transportation, loss of amenities, loss of marital life and pain & suffering are meagre and prayed for enhancement of compensation.

4. Per contra, the learned counsel appearing for the 2nd respondent/Transport Corporation contended that the Tribunal after considering both oral and documentary evidence in proper perspective, awarded compensation, which is not meagre. The appellant has not made out any case for enhancement and prayed for dismissal of the appeal.

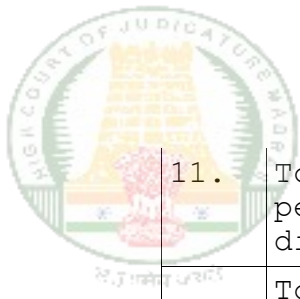
5. Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the 2nd respondent/Transport Corporation and perused all the materials available on record.

6. From the materials available on record, it is seen that the appellant has contended that he was working as a driver and was earning a sum of Rs.4,000/- per month. He has produced Ex.P22/salary certificate to prove the same. The Tribunal accepted Ex.P22/salary certificate and fixed a sum of Rs.4,000/- per month as notional income of the appellant. PW2/Doctor in his evidence has deposed that the appellant sustained multiple fractures on his both legs, his left leg was amputated and therefore, he cannot get employment either as a driver or for any other work. Therefore, he assessed the permanent disability of the appellant at 60% and partial permanent disability at 70%. The Tribunal fixed the disability of the appellant at 50%. The appellant was aged 24 years at the time of accident and the Tribunal applied multiplier '17'. The multiplier applied by the Tribunal is not correct. The correct multiplier is '18'. Further, the Tribunal has not granted any enhancement towards future prospects. The appellant is entitled to 40% enhancement towards future prospects. The amount awarded by the Tribunal



towards permanent disability is modified to Rs.6,04,800/- (Rs.4,000/- + 1,600 (Rs.4,000/- x 40%) x 12 x 18 x 50/100). The Tribunal has granted a sum of Rs.4,08,000/- towards permanent disability and Rs.1,00,000/- towards partial permanent disability. In view of the same, the amounts awarded by the Tribunal under other heads are not interfered with and the same are hereby confirmed. 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.	Loss of income	60,000	60,000	Confirmed
2.	Transportation	10,000	10,000	Confirmed
3.	Extra nourishment	10,000	10,000	Confirmed
4.	Medical expenses	5,21,000	5,21,000	Confirmed
5.	Attendant charges	10,000	10,000	Confirmed
6.	Loss of amenities, mental agony and discomfort	25,000	25,000	Confirmed
7.	Pain and suffering	25,000	25,000	Confirmed
8.	Loss of marital prospects	25,000	25,000	Confirmed
9.	Future medical expenses	1,43,000	1,43,000	Confirmed
10.	Disability of 50% at the rate of Rs.2,000/- per disability	1,00,000	1,00,000	Confirmed



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11.	Towards permanent disability	4,08,000	6,04,800	Enhanced
	Total	Rs.13,37,000/-	Rs.15,33,800/-	Enhanced by Rs.1,96,800/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.13,37,000/- is hereby enhanced to Rs.15,33,800/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation. It is made clear that the appellant/claimant shall not be entitled for any interest for the delay period on the amount of Rs.1,96,800/- enhanced by this Court. The 2nd respondent/Transport Corporation is directed to deposit the entire award amount now determined by this Court along with interest and costs, less the amount already deposited if any, within a period of twelve weeks from the date of receipt of a copy of this judgment. 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 if any, already withdrawn. No costs.

Sd/-

Assistant Registrar(CS)

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Sub Assistant Registrar

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To

1.The II Judge,
Small Causes Court,
Motor Accidents Claims Tribunal,
Chennai.

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

C.M.A.No.1582 of 2015

A.SK(17/02/2020)