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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.3306 of 2012

Vinothkumar

.... Appellant /Petitioner

Vs.

1. Karuppusamy

2. The Managing Director,
Tamil Nadu State Transport Corporation,
(Kovai Division-2) Limited
Sennimalai Road, Erode -1

3. Padmanaban

4. ArunkumarRespondents/Respondents

(Respondents 1,3 & 4 are set Ex-parte)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P.No.576 of 2007 dated 11.06.2010 on the file of the Motor Accidents Claims Tribunal/Principal Sub-Court at Coimbatore.

For Appellant : Mr.Ma.P. Thangavel

For Respondent-2 : Mr. K.J. Sivakumar

J U D G M E N T

The Civil Miscellaneous Appeal arises out of the Judgment and Decree dated 11.06.2010 made in M.C.O.P.No.576 of 2007 on the file of the Motor Accidents Claims Tribunal/Principal Sub-Court at Coimbatore. (for brevity, "the Tribunal").



2. The claimant is the appellant herein who has filed the appeal seeking for enhancement of compensation. The factum of the accident and manner of the accident taken place on account of rash and negligence on the part of the first respondent who is the driver of the second respondent's bus/Transport Corporation is not in dispute.

3. On the point of quantum, both sides have appeared before this Court.

4. The date of the accident is on 08.05.2007. On the date of the accident, the injured/claimant was 23 years old. During the accident, the injured/claimant had qualified in Carpenter, Electrician and Plumber Works as per Ex.P10, Ex.P11 and Ex.P12. Accordingly, he was obtained the certificates for the same from the Department of employment and Training, National Council for Vocational Training, and Commissioner of Employment Training. Being considered the above, the notional income is hereby enhanced to Rs.4,500/- (Rupees Four Thousand and Five Hundred Only) from Rs.3,000/- (Rupees Three Thousand Only) fixed by the Tribunal.

5. It is seen from Ex.P4, Accident Register, Ex.P8, Patient Book, issued by the Government Hospital, Coimbatore and Ex.P9, discharge summary, issued by the Akilesh Orthopaedics Hospital that the appellant/claimant has underwent in-patient treatment in two spells spanning from 08.05.2007 to 11.05.2007 in Coimbatore Medical College Hospital and from 22.05.2007 to 05.06.2007 in Kalpana Hospital. In toto, he was in-patient in the aforesaid hospitals for 17 days. Further, the disability certificate marked under Ex.P16 issued by the Doctor P.W.2, wherein there are of shortening in the left leg by 1 1/2" and wound of the angular restriction on the left knee. Consequently, left below knee has taken outward circular movement causing difficulties in both the running and walking. Accordingly, the medical evidence of disability of the appellant/claimant has been averred by the Doctor, P.W.2 during the trial. He has also assessed the disability of the appellant/claimant and issued certificate of the disability at 30% and the same was marked under Ex.P16. Accordingly, this Court find that the disability fixed by the medical evidence of the Doctor appears to be reasonable. Hence, the disability fixed at 30% by the Doctor, P.W.2 is accepted by this Court. Taking into consideration the date of the accident being on 08.05.2007, Rs.1,500/- for per percentage has been allowed towards compensation of permanent disability. i.e it arrives at Rs.45,000/- for 30% (Rs.1,500/- X 30 = 45,000/-).



6. The learned counsel for the appellant/claimant drawing attention of Medical Bills marked under Ex.P7, stated that even though medical bill to the tune of Rs.75,000/-, has been marked under Ex.P7, the Tribunal has granted only Rs.55,000/-.

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7. On perusal of the award passed by the Tribunal, it is seen that the discharge bill for the period from 22.05.2007 to 05.06.2007 is mentioned for Rs.18,600/- separately. Accordingly, the medical bill for Rs.75,000/- claimed by the Appellant/claimant is rounded for Rs.73,000/- herein taking into consideration the period of inpatient treatment in the hospitals. Further, Future medical expenses for correction surgery of Rs.30,000/- as per Ex.P17 appears to be reasonable.

8. In the result, the appellant/claimant is entitled to the compensation figured out in the following table under different heads:

SL. No.	Particulars	Amount (in Rs.)
1	Disability to the claimant	45000.00
2	Attended Charges	15000.00
3	Loss of amenities	15000.00
4	Transport	10000.00
5	Nutrition and Extra Nutrition	10000.00
6	Future Medical Expenses for correction surgery	30000.00
7	Medical Bills	73000.00
Total Amount		198000.00

Thus, the compensation awarded by the Tribunal has been enhanced by Rs.92,500/- from Rs.1,05,500/- to Rs.1,98,000/- with interest @ 7.5% per annum from the date of petition till the date of deposit and the second respondent/Transport Corporation is directed to deposit the award amount enhanced by this Court to the credit of M.C.O.P. No.576 of 2008 and on such deposit, the appellant/claimant is permitted to withdraw the same along with the interest.



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9. In the result, the appeal is partly allowed. Accordingly, the impugned award passed by the Tribunal is modified. There shall be no order as to costs.

-s/d-
Assistant Registrar (CSIII)

True Copy

Sub-Assistant Registrar

lbm

To

Motor Accidents Claims Tribunal/Principal
Sub-Court at Coimbatore.

copy to

The Section Officer
VR Section
High Court Madras

+1 cc to M/s.Ma.P.Thangavel Advocate sr39573
+1 cc to M/s.K.J.Sivakumar Advocate sr39849

C.M.A.No.3306 of 2012

mr(co)
aa09/10/2019