

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:25.04.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.3665 of 2012

B.Karthikeyan

... Appellant / Petitioner

Versus

The Managing Director,
Tamilnadu State Transport Corporation (VPM) Ltd.,
3/137, Salamedu
Vazhuthareddy, Villupuram.

... Respondent / Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 21.10.2011 made in M.C.O.P.No.740 of 2009 on the file of the Motor Vehicle Claims Tribunal, Additional District Judge, Fast Track Court-II, Poonamallee.

For Appellant : Ms.Y.Jeyanthi Bhaskar
for Mr.J.Mahalalingam

For Respondent : No appearance

JUDGMENT

The injured claimant who sustained accidental injuries in the accident that had taken place on 18.06.2006.has come forward with this appeal seeking enhancement of compensation awarded by the Tribunal.

2.The factum of the accident, the manner of the accident and rash and negligence on the part of the driver of the Government Bus are not in dispute. Hence, the finding in this regard by the Tribunal is hereby confirmed.

3.PW.2/Doctor has assessed the disability at 40%, based upon the Ex.P2/Accident Register and Ex.P8/X-ray report and Ex.P7/permanent disability certificate.

4.Learned counsel for the appellant present and none appear on behalf of the respondent either by person or counsel.

5.After going through the evidence, it appears that the PW.1/Injured claimant has suffered 1.Compound communitated fracture of both bones left leg, 2.Grade 30 compound fracture of Lateral malleolus, 3. Compound communitated fracture of right leg, 4.Crush injuries over left foot and other serious multiple injuries all over the body. Accordingly, the disability fixed at 40% is hereby confirmed.

6.Taking into consideration the date of accident is of the year 2006, the sum of Rs.1,500/- fixed towards per percentage of disability, in the opinion of this Court, is proper. However, this Court is inclined to award a sum of Rs.30,000/- for pain and suffering, a sum of Rs.10,000/- for Transportation, Rs.10,000/- for Extra-nourishment and for loss of amenities a sum of Rs.15,000/- than the one awarded by the Tribunal. As per the medical bills produced by the claimant, the Tribunal awarded Rs.1,51,852/- under the head 'medical expenses' and the same is hereby maintained. Considering the age, avocation of the claimant, the loss of income during the period of hospitalization of six months is arrived at Rs.30,000/- (Rs.5000 x 6). The break-up details of the award amount as follows:-

Description	Amount awarded by Tribunal	Amount awarded by this Court
Permanent disability	Rs.52,500/-	Rs.52,500/-
Pain and suffering	Rs.15,000/-	Rs.30,000/-
Transportation	Rs.5,000/-	Rs.10,000/-
Extra nourishment	Rs.5,000/-	Rs.10,000/-
Attender charges	Rs.5,000/-	Rs.10,000/-
Medical expenses	Rs.1,51,852/-	Rs.1,51,852/-
Loss of income	Rs.15,000/-	Rs.30,000/-
Loss of amenities	-	Rs.15,000/-
Total	Rs.2,49,352/-	Rs.3,09,352/-

9.In the result, this Civil Miscellaneous Appeal is partly allowed.

(i) The compensation amount of Rs.2,49,352/- awarded by the Tribunal is hereby enhanced to Rs.3,09,352/-, along with interest at the rate of 7.5% per annum, from the date of petition till the date of realisation.

(ii) The respondent/Transport Corporation is liable to pay the compensation amount of Rs.3,09,352/- to the appellant/claimant, together with interest of 7.5%, within a period of eight weeks from the date of receipt of copy of this Judgment.

(iii) On such deposit being made, the appellant/claimant is permitted to withdraw the entire amount, as determined in this appeal, with accrued interest.

(iv) The appellant is directed to pay additional Court fee for the enhanced amount. No costs.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

klt

To

1. The Motor Accidents Claims Tribunal,
Additional District Judge,
Fast Track Court - 2, Poonamallee.
2. The Section Officer,
V.R. Section, High Court, Madras - 104.

VBA (CO)
SSM(30/09/2019)

CMA No.3665 of 2012

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