

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.920 of 2015

Kesavan

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Appellant /Petitioner

Vs

The Managing Director,
Tamil Nadu State Transport Corporation Limited
(Villupuram Division), No.3/137, Salamedu
Valutha Reddy Post,
Villupuram-605 602.

...

Respondent/Respondent

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 17.09.2014 made in MACTOP No.2910 of 2010 on the file of the Motor Accidents Claims Tribunal and V Court of Small Causes, Chennai.

For Appellant : Mr.F.Terry Chella Raja

For Respondent : Mr.S.Sairaman

JUDGMENT

This appeal is preferred by the appellant/claimant against the award of a sum of Rs.1,91,000/- towards compensation due to the injuries sustained by him in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 20.11.2007 at about 01.20 hours, the appellant was travelling in the bus bearing Reg.No.TN-32-N-2597 belonging to the respondent Transport Corporation, as passenger, which was proceeding along the Villupuram - Chennai National Highway. When the bus reached near Mele Street Bus Stop, due to the rash and negligent driving of its driver, the bus dashed against the stationed lorry bearing Reg.No.TN-28-V-4128. Due to the said impact, the appellant / claimant sustained grievous injuries. The appellant / claimant filed a claim petition before the Tribunal, claiming a sum of Rs.6,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.1,91,000/- with interest at the rate of 7.5% per annum

from the date of petition.

3.Challenging the same, the appellant-claimant has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant /claimant has submitted that the Tribunal has failed to consider the evidence of P.W.1, the appellant herein and P.W.2-Doctor who assessed the disability and the documents marked through them and awarded only a meagre compensation of Rs.1,91,000/- as against the claim of Rs.6,00,000/-. He submitted that the amounts awarded towards other heads are also meagre. Stating so, the learned counsel prayed for enhancement of compensation.

5.The learned counsel for the respondent / Transport Corporation has submitted that the Tribunal has rightly considered the materials and evidence available on record and has awarded the just, fair and reasonable compensation and hence the same does not require any interference in the hands of this Court.

6.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

7.The details of compensation awarded by the Tribunal are as follows:

HEADS	AMOUNT (Rs.)
Loss of income during the treatment period	26,000/-
Extra nourishment, transport expenses and damages to clothes	25,000/-
Medical expenses	5,000/-
Pain and suffering	25,000/-
Disability	90,000/-
Loss of amenities	20,000/-

TOTAL...	1,91,000/-
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8.Ex.P2 is the Discharge Summary issued by the Government

Hospital, Villupuram for the treatment taken by the claimant, in which it is stated that the appellant has sustained head injury fracture of zygomatic complex with avulsion, upper 6 teeth injury, injury in the right leg and right knee medial ligament avulsion. This Court is of the considered view that in view of the injuries sustained by the appellant/ claimant, certainly he would have incurred medical expenditure for a certain period, after discharge from the hospital. Hence, it would be appropriate to award a sum of Rs.20,000/- towards future medical expenses. Further, due to the displacement of the upper 6 teeth of the claimant and the head injuries sustained by him, certainly there would be loss of comfort for the appellant / claimant and in view of the same, it would be appropriate to award a sum of Rs.10,000/- in addition to the amount awarded by the Tribunal in respect of loss of amenities and Rs.4,000/- in addition to the amount awarded by the Tribunal in respect of pain and suffering. The amounts awarded towards other heads are reasonable and hence the same are confirmed.

9.The details of the modified compensation are as under:

HEADS	AMOUNT (Rs.)
Loss of income during the treatment period	26,000/-
Extra nourishment, transport expenses and damages to clothes	25,000/-
Medical expenses	5,000/-
Future medical expenses	20,000/-
Pain and suffering	29,000/-
Disability	90,000/-
Loss of amenities	30,000/-
TOTAL...	2,25,000/-

Thus, the appellant / claimant is entitled to the modified compensation of Rs.2,25,000/-. It is made clear that only for the compensation of Rs.1,91,000/- awarded by the Tribunal, the interest rate of 7.5% per annum shall be calculated from the date of claim petition. For the enhanced amount of Rs.34,000/-, the interest rate of 7.5% shall be calculated from the date of

filing of this appeal.

10.The Civil Miscellaneous Appeal is allowed to the extent indicated above. No costs.

11.The respondent Transport Corporation is directed to deposit the modified compensation as ordered above, less the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant / claimant shall withdraw the same, on making proper application before the Tribunal.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

KM

To

1.The V Court of Small Causes,
Motor Accidents Claims Tribunal,
Chennai.

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

+1cc to Mr.S.Sairaman, Advocate, S.R.No. 86662

C.M.A.No.920 of 2015

PVS (CO)
GN(18/12/2020)

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