



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.997 of 2019

S.Venkatesan

.. Appellant/ Petitioner

Vs.

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan House,
Chennai-600 002.

.. Respondent/ Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 10.09.2018 made in M.C.O.P.No.4343 of 2013 on the file of the Motor Accidents Claims Tribunal, III Court of Small Causes, Chennai.

For Appellant : Mr.R.Thirugnanam

For Respondent : Mr.S.Sivakumar

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the award dated 10.09.2018 made in M.C.O.P.No.4343 of 2013 on the file of the Motor Accidents Claims Tribunal, III Court of Small Causes, Chennai.

2.The appellant is claimant in M.C.O.P.No.4343 of 2013 on the file of the Motor Accidents Claims Tribunal, III Court of Small Causes, Chennai. He filed the above claim petition claiming a sum of Rs.1,00,00,000/- as compensation for the injuries sustained by him in the accident that took place on 28.06.2013. 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 respondent and directed the respondent to pay a sum of Rs.10,30,800/- as compensation to the appellant/claimant. Not being satisfied with the award of the Tribunal made in M.C.O.P.No.4343 of 2013, the appellant has come out with the present appeal for enhancement of compensation.



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3.The learned counsel appearing for the appellant contended that the total amounts awarded by the Tribunal are meager. The Tribunal ought to have awarded a sum of Rs.3,00,000/- towards pain and sufferings instead of Rs.1,00,000/-, Rs.1,00,000/- towards extra nourishment instead of Rs.25,000/-, Rs.50,000/- towards Transportation instead of Rs.15,000/- and Rs.3,50,000/- towards Future medical expenses instead of Rs.50,000/-. The Tribunal failed to consider the documents Ex.P9 to Ex.P11 and Ex.P13 filed by the appellant to prove the monthly income of the appellant at Rs.3,17,000/-. The Tribunal ought to have awarded a sum of Rs.10,00,000/- instead of Rs.25,000/- towards loss of income and a sum of Rs.2,00,000/- instead of Rs.25,000/- towards loss of amenities and prayed for enhancement of compensation.

4.Per Contra, the learned counsel appearing for the respondent contended that the Tribunal accepting the disability assessed by the Doctor granted compensation at the rate of Rs.3,000/- per percentage and accordingly awarded a sum of Rs.1,65,000/- for disability. The Tribunal has awarded excessive compensation for pain and sufferings and under other heads. 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 respondent and perused all the materials available on record.

6.From the materials available on record, it is seen that the appellant examined P.W.2/Doctor who deposed about the nature of injuries and disability assessed by P.W.3/Doctor. The Tribunal reduced the disability to 55% on the ground that the disability certificate was not supported by working sheet and guidelines which is not valid. The appellant is entitled to compensation of Rs.1,95,000/- for 65% disability at the rate of Rs.3,000/- per percentage (65 X Rs.3,000/- = Rs.1,95,000/-). The appellant has taken treatment as inpatient in the hospital from 28.06.2013 to 10.07.2013. The Tribunal awarded a sum of Rs.2,600/- towards attender charges which is meager and the same is enhanced to Rs.10,000/-. The amounts awarded by the Tribunal under other heads are not meagre and the same are confirmed. The learned counsel appearing for the appellant contended that the appellant was earning a sum of Rs.3,17,000/- per month and filed the Partnership Deed, Work Allotment Order, Staff's attendance register and Audit report for the year 2009 to 2013. The appellant has not filed the income tax return and payment of income tax. The Tribunal held that the appellant's wife and other staff members would have managed the



partnership firm. The appellant has not let in any evidence to show that due to the injuries his earning capacity reduced. In such circumstances a sum of Rs.25,000/- awarded by the Tribunal for loss of income during treatment is not meager. Thus, the compensation awarded by the Tribunal is modified as follows:

SL No	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted
1.	Disability	1,65,000/-	1,95,000/-	Enhanced
2.	Pain & suffering	1,00,000/-	1,00,000/-	Confirmed
3.	Extra nourishment	25,000/-	25,000/-	Confirmed
4.	Transportatio n	15,000/-	15,000/-	Confirmed
5.	Damages to clothes	1,000/-	1,000/-	Confirmed
6.	Attender charges	2,600/-	10,000/-	Enhanced
7.	Medical expenses	6,47,185/-	6,47,185/-	Confirmed
8.	Future medical expenses	25,000/-	25,000/-	Confirmed
9.	Loss of Income	25,000/-	25,000/-	Confirmed
10	Loss of amenities	25,000/-	25,000/-	Confirmed
	Total	Rs.10,30,785/ -	Rs.10,68,185/ -	Enhanced by Rs.37,400/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.10,30,785/- is hereby enhanced to Rs.10,68,185/- with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The respondent/Transport Corporation is directed to deposit the enhanced award amount along with interest now determined by this Court, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this order. On



such deposit, the appellant/claimant is permitted to withdraw the enhanced award amount along with interest and cost less the amount if any, already withdrawn. No costs.

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Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

gbi/rst

To

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

2.The Section Officer,
V.R.Section,
High Court,
Madras.

+lcc to Mr.R.Thirugnanam , Advocate SR.No. 19703

+lcc to Mr.S.Sivakumar , Advocate SR.No. 20108

C.M.A.No.997 of 2019

A.SK(03/10/2019)