

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S. RAMATHILAGAM

C.M.A.No.425 of 2015

Ayyappan ... Appellant/Petitioner

Vs.

Metropolitan Transport Corporation,
Pallavan Salai,
Annasalai,
Chennai-600 002

... Respondent/Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 16.09.2013 and made in M.A.C.T.O.P.No.3550/2011 on the file of the Motor Accident Claims Tribunal and Special Sub Judge I, Chennai.

For Appellant : Mrs.A.Subadra
for Mrs.M.Malar

For Respondent : Mr.S.Sivakumar

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the award and decree made in M.A.C.T.O.P.No.3550 of 2011, dated 16.09.2013, on the file of the Special Sub Judge I, (Motor Accidents Claims Tribunal), Chennai.

2. The appellant is the claimant in M.C.O.P.No.3550 of 2011, on the file of the learned Special Sub Judge I (Motor Accidents Claims Tribunal), Chennai. He filed the above said MCOP claiming compensation of Rs.8,00,000/- for the injuries sustained by him in a road accident that took place on 20.06.2011, at about 05.40 hrs, when the petitioner was getting into the bus at Agaram Sough Road bus stop bearing registration No.TN-01-N-4166, the driver of the said bus suddenly started the bus in a very rash and negligent manner without considering the passengers getting into the bus and the bus ran over

against the right leg of the petitioner thus he sustained grievous injuries. The driver of the Transport Corporation bus was solely responsible for the accident.

3. The Tribunal considering the pleadings, oral and documentary evidences adduced on the side of the injured held that the accident occurred due to the rash and negligent driving of the driver of the bus belonging to the respondent / Metropolitan Transport Corporation and directed the respondent / Metropolitan Transport Corporation to pay the compensation of Rs.1,38,700/- to the appellant/claimant.

4. Aggrieved by the award passed by the Tribunal, the claimant has filed the present appeal under Section 173 of the Motor Vehicles Act for enhancement.

5. Before the Tribunal, on the side of the claimant, witnesses P.W.1 and P.W.2 were examined and following exhibits were marked:

- (a)Ex.P1 : Copy of FIR
- (b)Ex.P2 : Wound Certificate
- (c)Ex.P3 : Discharge Summary
- (d)Ex.P4 : O.P.Chit
- (e)Ex.P5 : Discharge Summary II Admission
- (f)Ex.P6 : Photos & C.D
- (g)Ex.P7 : Disability Certificate
- (h)Ex.P8 : X Ray

On the side of the Respondent / Metropolitan Transport Corporation, Witness R.W.1 was examined and one exhibit were marked.

6.Heard both sides on perusal the documents available on record.

7. The learned counsel for the appellant submitted that on 20.06.2011, at about 05.40 hrs, when the petitioner was getting into the bus at Agaram Sough Road bus stop bearing registration No.TN-01-N-4166, the driver of the said bus suddenly taken the bus in a very rash and negligent manner without considering the passengers whom getting into the bus and the bus ran over the right leg of the petitioner and he sustained grievous injuries and thereafter the appellant was admitted in Government General Hospital from 20.06.2011 to 26.06.2011 as in-patient and then again he took treatment as outpatient. Further he contented that the Doctor who treated the injured was examined by the tribunal and marked Ex.P2, where in it is stated that the claimant sustained crush injury on right foot (big toe) distal Phalanx. Laceration on right II and III toes, fracture of distal phalanx of right big toe and II and III toes Amputation of a part of the

distal phalanx. The claimant would have found it difficult to do his normal work atleast for a period of two months. The learned counsel further submitted that the tribunal has not awarded any compensation for loss of amenities, damages to cloth, articles of the injured and attender charges.

8. The learned counsel appearing for the respondent/ Metropolitan Transport Corporation contended that the petitioner himself is responsible for the accident due to foot board travelling. He further submitted that there is no proof for occupation or income of the injured and in the absence of any details, the Tribunal erroneously fixed the monthly income at Rs.4,500/- without any basis and on the whole, the sum awarded by the Tribunal under other heads is excessive. He further submitted that the tribunal ought to have reduced the disability assessed by the doctor and ought not to have applied the multiplier method by considering the nature of injuries and disability.

9. On perusal of records, it is seen that particulars have been furnished by the appellant regarding his age, income and occupation and the same are taken into consideration by the Tribunal. It is seen that, the injured was aged about 29 years at the time of accident and he was working as a Centering work and was earning a sum of Rs.500/- per day. It is observed from the evidence of doctor that the disability sustained by the claimant has been stated as 20%. However, the tribunal has considered the disability only at 10%. The tribunal has considered the loss of earning during the period of treatment and awarded a sum of Rs.13,500/- which is also very meager. The learned counsel for the appellant submitted that the appellant was taking treatment as inpatient for 12 days and the Tribunal has not granted any compensation towards attender charges. Hence, a sum of Rs.10,000/- is awarded to the appellant towards attender charges. The Tribunal has taken a sum of Rs.4,500/- as monthly income of the injured and 10% added towards future prospects as $\text{Rs.4,500} \times 10\% = 450/-$ and awarded a sum of Rs.97,200/- ($450 \times 12 \times 18$) towards permanent disability. This Court has taken a sum of Rs.6,000/- as monthly income of the injured and towards added 10% for future prospects as $\text{Rs.6,000} \times 10\% = 600/-$ and considering the age of deceased, the multiplier 18 has adopted and thereby award amount would come to a sum of Rs.1,29,600/- ($600 \times 12 \times 18$) towards the Permanent disability. Thus, the compensation awarded by the Tribunal is modified as follows:

10. Hence the total compensation payable to the appellant is as hereunder

S.No	Description	Amount awarded by Tribunal	Amount awarded by this Court
1.	Loss of Income	Rs.13,500/-	Rs.13,500/-
2.	Transport to hospital	Rs.5,000/-	Rs.5,000/-
3.	Extra nourishment	Rs.5,000/-	Rs.5,000/-
4.	Medical expences	Rs.3,000/-	Rs.3,000/-
5.	Pain and sufferings	Rs.15,000/-	Rs.15,000/-
6.	Permanent disability	Rs.97,200/-	Rs.1,29,600/- (600 X 12 X18)
7.	Attender's Charges	-	Rs.10,000/-
	Total	Rs.1,38,700/-	Rs.1,81,100/-

11. In the result the Civil Miscellaneous Appeal is partly allowed and the award passed by the Tribunal to the tune of Rs.1,38,700/- is enhanced to Rs.1,81,100/-. No costs

12.The respondent / Metropolitan Transport Corporation is directed to deposit the entire amount awarded by this Court along with interest and costs before the Tribunal within a period of four weeks from the date of receipt of a copy of this order, after deducting the amount already deposited, if any. The interest awarded by the Tribunal at the rate of 7.5% per annum is unaltered. On such deposit being made, the Tribunal shall transfer the amount to the claimant's bank account through NEFT or RTGS within a period of one week thereon. The appellant/claimant is directed to pay the requisite court fee, if any within a period of two weeks from the date of receipt of a copy of this order.

सत्यमेव जयते

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

tta
To

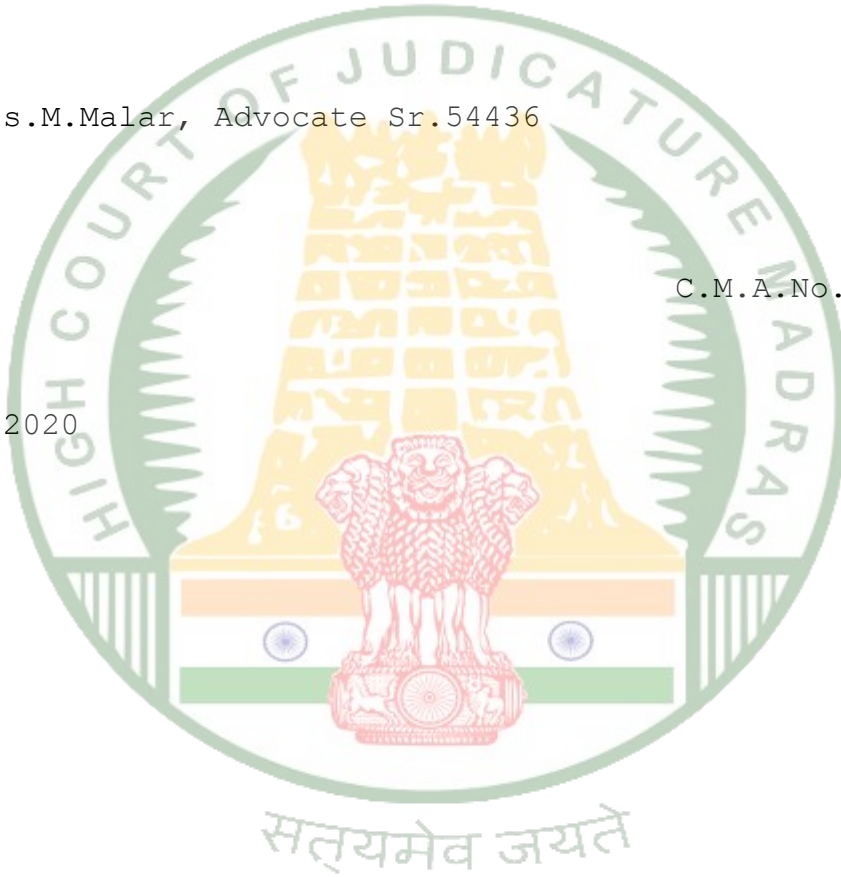
1. The Special Sub Judge I,
Motor Accident Claims Tribunal
Chennai.

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

+1cc to M/s.M.Malar, Advocate Sr.54436

C.M.A.No.425 of 2015

mr[col
srg 20/02/2020



WEB COPY