



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1755 of 2019

Raja Perumal

.. Appellant/Claimant

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Chennai 2.

.. Respondent/ Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 06.10.2018, made in M.C.O.P.No.28 of 2016, on the file of the II Additional District Court, (Motor Accident Claims Tribunal), Chidambaram.

For Appellant : Mr.K.Aravind Raj

For Respondent : Mr.K.J.Sivakumar

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/claimant seeking enhancement of the compensation granted by the Tribunal in the award dated 06.10.2018, made in M.C.O.P.No.28 of 2016, on the file of the II Additional District Court, (Motor Accident Claims Tribunal), Chidambaram.

2.By consent of both parties, the appeal is taken up for final disposal at the admission stage itself.

3.The appellant/claimant filed M.C.O.P.No.28 of 2016, on the file of the II Additional District Court, (Motor Accident Claims Tribunal), Chidambaram, claiming a sum of Rs.50,00,000/- as compensation for the injuries sustained by him in the accident that took place on 08.11.2015.

4.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-Transport Corporation and directed the



respondent to pay a sum of Rs.30,00,400/- as compensation to the appellant/claimant.

5. Not being satisfied with the amounts granted by the award dated 06.10.2018, made in M.C.O.P.No.28 of 2016, the appellant/claimant has come out with the present appeal.

6. The learned counsel appearing for the appellant contended that the appellant was working as a mason in the State of Kerala and was earning a sum of Rs.21,000/- per month. The Tribunal erroneously fixed a meagre sum of Rs.9,000/- per month as the notional income of the appellant. The amounts granted by the Tribunal for extra nourishment is meagre and the Tribunal has not awarded any amount for loss of amenities, attender charges, future medical expenses, loss of marriage prospects and pain and suffering and prayed for enhancement of the compensation.

7. Per contra, Mr.K.J.Sivakumar, learned counsel appearing for the respondent-Transport Corporation contended that the appellant has not proved that he was working as a mason and was earning a sum of Rs.21,000/- per month. In the absence of any material evidence, the Tribunal rightly fixed a sum of Rs.9,000/- as the monthly income and granted 40% enhancement, fixing Rs.12,500/- as the notional income which is not meagre. The Tribunal considering the nature of injuries, disability assessed by the Doctor at 95%, granted compensation applying the multiplier method fixing 100% functional disability, which are not meagre and prayed for dismissal of the appeal.

8. Heard the learned counsel appearing for the appellant as well as the respondent-Transport Corporation and perused the materials available on record.

9. From the materials on record, it is seen that the appellant has contended that he worked in UAE countries and at the time of accident, he was working as a mason in the State of Kerala. He has not filed any document with regard to avocation and income. In the absence of material evidence, the Tribunal fixed monthly income of the appellant at Rs.9,000/- and granted 40% enhancement towards future prospects and arrived at Rs.12,600/- as the monthly income including future prospects. The accident is of the year 2010. The monthly income fixed by the Tribunal is meagre. A sum of Rs.10,000/- is fixed as the monthly income of the appellant and granting 40% enhancement towards future prospects, the compensation granted towards permanent disability is modified to Rs.28,56,000/- {[Rs.10,000/- + Rs.4,000/-(40% of Rs.10,000/-)] x 12 x 17 x 100%}. The left leg of the appellant up to thigh was amputated and four fingers in the



right leg also was amputated. Considering the materials on record and treatment taken by the appellant, the amounts granted by the Tribunal for extra nourishment is enhanced to Rs.50,000/-. The Tribunal failed to grant any amount towards pain and suffering. The appellant is entitled to a sum of Rs.50,000/- towards the same. Due to the accident, he lost the marital prospects. Hence, a sum of Rs.1,00,000/- is granted towards marital prospects. The amounts granted by the Tribunal under other heads are just and reasonable and they are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Permanent disability	25,70,400/-	28,56,000/-	Enhanced
2.	Attender charges	1,00,000/-	1,00,000/-	Confirmed
3.	Loss of amenities	1,00,000/-	1,00,000/-	confirmed
4.	Future attendant benefits	1,00,000/-	1,00,000/-	Confirmed
5.	Medical expenses & Future Medical expenses	50,000/-	50,000/-	Confirmed
6.	Transportation	50,000/-	50,000/-	Confirmed
7.	Extra nourishment	30,000/-	50,000/-	Enhanced
8.	Pain and suffering	-	50,000/-	Granted
9.	Marital prospects	-	1,00,000/-	granted
	Total	30,00,400/-	34,56,000/-	Enhanced by Rs.4,55,600/-

10. In the result, the appeal is partly allowed and compensation granted by the Tribunal at Rs.30,00,400/- is enhanced to Rs.34,56,000/- along with interest and costs. The respondent is directed to deposit the enhanced award amount along with interest and costs, within a period of twelve



weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.28 of 2016. On such deposit, the appellant/claimant is permitted to withdraw the enhanced award amount along with interest and costs, less the amount already withdrawn if any, by filing necessary application before the Tribunal. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

gsa
To

The II Additional District Judge,
(Motor Accident Claims Tribunal),
Chidambaram.

+lcc to Mr.A.Murugan , Advocate SR.No. 24133

+lcc to Mr.K.J.Sivakumar , Advocate SR.No. 24264

C.M.A.No.1755 of 2019

A.SK(16/10/2019)