



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1815 of 2019

Selvakumar

.. Appellant

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
12, Ramakrishna Road,
Salem - 636 007.

.. Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 06.12.2018 made in M.C.O.P.No.421 of 2014 on the file of the Motor Accident Claims Tribunal, Sub Court, Tiruchengode.

For Appellant : Mr.T.S.Arthanareeswaran

For Respondent : Mr.D.Venkatachalam

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant/claimant seeking enhancement of compensation granted by the Tribunal in the award dated 06.12.2018 made in M.C.O.P.No.421 of 2014 on the file of the Motor Accident Claims Tribunal, Sub Court, Tiruchengode.

2.By consent of both the learned counsel appearing for the appellant and respondent-Transport Corporation, the appeal is taken up for final disposal at the stage of admission itself.

3.The appellant is claimant in M.C.O.P.No.421 of 2014 on the file of the Motor Accident Claims Tribunal, Sub Court, Tiruchengode. He filed the said claim petition claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by him in the accident that took place on 11.08.2014. 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



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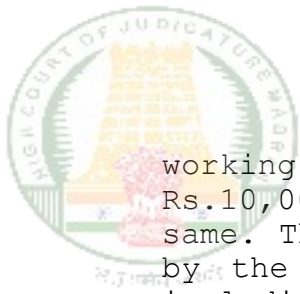
Corporation and directed the respondent-Transport Corporation to pay a sum of Rs.1,11,255/- as compensation to the appellant. Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

4.The learned counsel appearing for the appellant contended that the appellant was working as a school bus driver and was earning a sum of Rs.10,000/- per month. The appellant was aged 34 years and he was hale and healthy. Due to the accident, he sustained grievous injury and multiple fractures. The appellant has given first-aid treatment in Government Hospital at Tiruchengode and he has taken treatment in Krishna Hospital as in-patient from 11.08.2014 to 22.08.2014 for 12 days. He underwent surgery and orief with K-wire fixation done for 4th and 5th metacarpal bones. He could not do his work as he was doing earlier. He lost his entire earning capacity. The amounts granted by the Tribunal towards pain & suffering and extra nourishment are meagre. The appellant was referred to Medical Board, the Medical Board assessed the disability of the appellant at 10% and certified that it will improve after the period of three years. The Tribunal has not awarded any amounts towards medical expenses, transport, loss of amenities and attendant charges and prayed for enhancement of compensation.

5.Per contra, Mr.D.Venkatachalam, learned counsel appearing for the respondent-Transport Corporation contended that the appellant has failed to prove his age, avocation and income. In the absence of material evidence, the Tribunal has fixed monthly income of the appellant at Rs.6,000/-. The Medical Board assessed that the appellant has suffered 10% disability. The Tribunal has granted Rs.3,000/- per percentage and the amounts granted by the Tribunal under other heads are also not meagre. The appellant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

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

7.From the materials available on record, it is seen that the appellant has contended that he sustained grievous injury and suffered fracture. The appellant has taken treatment in the hospital as in-patient from 11.08.2014 to 22.08.2014 for 12 days. To prove the same, he examined himself as P.W.1 and examined two Doctors as P.W.2 and P.W.3. The appellant was referred to Medical Board and the Medical Board has assessed that the appellant suffered 10% disability. Due to the nature of injuries and fracture, the appellant could not have worked atleast for 3 months. The appellant contended that he was



working as a school bus driver and was earning a sum of Rs.10,000/- per month. The appellant has failed to prove the same. The accident is of the year 2014. The monthly income fixed by the Tribunal is meagre and this Court fix monthly income including future prospects as Rs.9,000/-. Due to the injuries, the appellant could not have worked atleast for four months. A sum of Rs.36,000/- (9,000 x 4) is granted towards loss of income. The Tribunal has not awarded any amounts towards attendant charges, loss of amenities and damages to cloth and hence, this Court awards a sum of Rs.10,000/-, Rs.10,000/- and Rs.2,000/- under those heads respectively. The amount awarded by the Tribunal towards extra nourishment is meagre and the same is enhanced to Rs.10,000/-. The amounts awarded by the Tribunal under all other heads are just and reasonable and the same 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.	Medical bills	59,975	59,975	Confirmed
2.	X-ray bill	280	280	Confirmed
3.	Pain and suffering	10,000	10,000	Confirmed
4.	Extra nourishment	5,000	10,000	Enhanced
5.	Loss of income	6,000	36,000	Enhanced
6.	Partial permanent disability	30,000	30,000	Confirmed
7.	Attendant charges	-	10,000	Granted
8.	Loss of amenities	-	10,000	Granted
9.	Damages to cloth	-	2,000	Granted
	Total	Rs.1,11,255/-	Rs.1,68,255/-	Enhanced by Rs.57,000/-

8.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,11,255/- is hereby enhanced to Rs.1,68,255/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant-claimant is directed to pay necessary Court fee, if any, on the enhanced compensation.



The respondent-Transport Corporation is directed to deposit the enhanced award amount now determined by this Court along with interest and costs, less the amount already deposited if any, within a period of twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant is permitted to withdraw the enhanced award amount, along with interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

mtl

To

1.The Subordinate Judge,
Motor Accidents Claims Tribunal,
Tiruchengode.

+2cc to Mr.C.Paraneedharan, Advocate, S.R.No. 32348

C.M.A.No.1815 of 2019

SS(CO)
GN(18/11/2019)