

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.182 of 2018

Mahaveer

.. Appellant/Petitioner

Vs.

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan Salai,
Chennai-2.

.. Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 22.03.2012 made in M.C.O.P.No.4015 of 2008 on the file of the Motor Accident Claims Tribunal, III Court of Small Causes, Madras.

For Appellant : Mr.K.Varadha Kamaraj

For Respondent : Mr.S.Sivakumar

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the award dated 22.03.2012 made in M.C.O.P.No.4015 of 2008 on the file of the Motor Accident Claims Tribunal, III Court of Small Causes, Madras.

2.The appellant is claimant in M.C.O.P.No.4015 of 2008 on the file of the Motor Accident Claims Tribunal, III Court of Small Causes, Madras. He filed the above claim petition claiming a sum of Rs.6,00,000/- as compensation for the injuries sustained by him in the accident that took place on 31.08.2008. 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.1,66,500/- as compensation to the appellant/claimant. Not being satisfied with the award of the Tribunal made in M.C.O.P.No.4015 of 2008, the appellant has come out with the present appeal for enhancement of compensation.

3.The learned counsel appearing for the appellant contended that the appellant was working as electrician and was earning

a sum of Rs.6,000/- per month. The Tribunal erroneously fixed a meagre sum of Rs.4,500/- as notional income of the appellant. He has suffered 40% disability. Due to the disability he could not continue his work as he was doing earlier. The Tribunal ought to have applied multiplier method for awarding compensation. The amounts awarded by the Tribunal under different heads are meager and prayed for enhancement of compensation.

4.Per Contra, Mr.S.Sivakumar, the learned counsel appearing for the respondent/Transport Corporation contended that the Tribunal accepted the disability certified by P.W.2/Doctor and awarded compensation. The appellant has not proved that he has suffered functional disability. In the absence of any evidence, to substantiate that the appellant suffered functional disability the Tribunal awarded compensation for 40% disability at the rate of Rs.2,000/- per percentage the same is in order. The Tribunal erroneously fixed the loss of income for three months, when the appellant has not proved that he has lost his income due to the injuries sustained by him in the accident 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 due to the injuries sustained by the appellant in the accident he has suffered 40% disability. The Tribunal accepted the same based on evidence of P.W.2/Doctor , who has deposed that the appellant is finding it difficult to lift weight and to do his work. The Doctor has not deposed that he suffered functional disability. In view of the same, the percentage method adopted by the Tribunal for awarding compensation is in order. The Tribunal awarded a sum of Rs.13,500/- towards loss of income which is meagre and the same is enhanced to Rs.27,000/- for six months. The appellant was taking treatment in hospital from 31.08.2008 to 01.09.2008 and 02.09.2008 to 10.09.2008 for 11 days. The Tribunal has not awarded any amount towards attendant charges, loss of amenities and damages to cloth. A sum of Rs.7,500/-, Rs.10,000/- and Rs.500/- is granted towards attendant charges, loss of amenities and damages to cloth respectively. The amounts awarded by the Tribunal under other heads are confirmed. 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.	Loss of Income	13,500/-	27,000/-	Enhanced

2.	Transportation	5,000/-	5,000/-	Confirmed
3.	Extra nourishment	5,000/-	5,000/-	Confirmed
4.	Medical expenses	53,000/-	53,000/-	Confirmed
5.	Pain & suffering	10,000/-	10,000/-	Confirmed
6.	Disability	80,000/-	80,000/-	Confirmed
7.	Attendant charges	-	7,500/-	Granted
8.	Loss of amenities	-	10,000/-	Granted
9.	Cloth	-	500/-	Granted
	Total	Rs.1,66,500/-	Rs.1,98,000/-	Enhanced by Rs.31,500/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,66,500/- is hereby enhanced to Rs.1,98,000/- 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 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.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

gbi/rst

To

1. The III Judge, Court of Small Causes,
Motor Accident Claims Tribunal,
Madras.

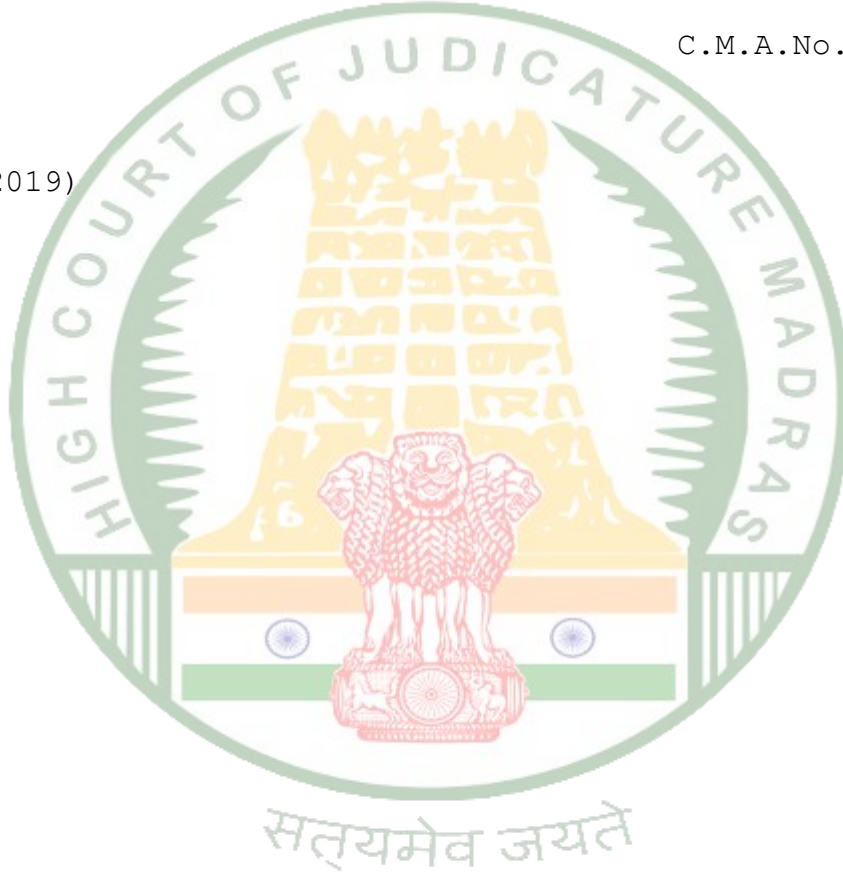
Copy To

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

+1cc to Mr.S.Sivakumar, Advocate, S.R.No. 15347
+1cc to Mr.K.Varadha Kamaraj, Advocate, S.R.No. 14760

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SAI (CO)
GN (27/05/2019)



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