



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.Nos.746 & 747 of 2018

P.Mohanraj .. Appellant in CMA.No.746 of 2018/Petitioner

D.Mohan Babu .. Appellant in CMA.No.747 of 2018

Vs.

The Managing Director,
Metropolitan Transport Corporation,
Pallavan Salai,
Chennai - 600 002. .. Respondent in both C.M.As./Respondent

Common Prayer: These Civil Miscellaneous Appeals are filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment dated 18.07.2017 made in MCOP.Nos.6705 & 6706 of 2013 on the file of the Motor Accident Claims Tribunal, (III Small Causes Court) Chennai.

For Appellant in both appeals : Mr.K.V.Varadhakamaraj

For Respondent in both appeals : Mr.S.Sivakumar

C O M M O N J U D G M E N T

These Civil Miscellaneous Appeals have been filed against the common award dated 18.07.2017 made in 6705 & 6706 of 2013 respectively on the file of the Motor Accident Claims Tribunal, (III Small Causes Court) Chennai.

2.Both these appeals are arising out of the very same accident and common award. Hence, they are disposed of by this common judgment.

3.The appellants-claimants filed the said claim petitions in 6705 & 6706 of 2013 respectively on the file of the Motor Accident Claims Tribunal, (III Small Causes Court) Chennai, claiming a sum of Rs.6,00,000/- each as compensation for the injuries sustained by them in the accident that took place on 17.09.2013.



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 and directed the respondent to pay the sum of Rs.5,21,700/- and Rs.3,77,300/- as compensation to the appellants/claimants respectively.

5.Not being satisfied with the award of the Tribunal, the appellants-claimants have come out with these appeals seeking enhancement of compensation.

6.The learned counsel appearing for the appellant contended that Doctor certified in both cases that partial and permanent disability suffered by both the appellants at 50%. The Tribunal erroneously reduced the percentage of disability to 35%. The Tribunal, without any basis, has fixed only 10% of disability for whole body. The amounts awarded by the Tribunal for loss of income, pain and suffering and extra nourishment are meagre and the Tribunal has not awarded any amount for loss of amenities and prayed for enhancement of compensation.

7. Per contra, Mr.S.Sivakumar, learned counsel appearing for the respondent-Transport Corporation contended that the Tribunal erred in awarding compensation for the injuries suffered by the appellants on three different heads with regard to loss of income. The Tribunal has awarded compensation for disability of 35% at the rate of Rs.3,000/- per percentage, applied multiplier method for 10% of disability for whole body and also awarded further compensation for loss of income. The amount awarded under different heads are excessive. The appellants in both the appeals have not made out any case for enhancement and prayed for dismissal of the appeal.

8. Heard the learned counsel appearing for the appellant and respondent and perused the materials available on record.

9. From the award of the Tribunal, it is seen that the appellants have examined the same Doctor as PW3 & PW4 and the Doctor certified that both the appellants suffered 50% of partial and permanent disability. The Tribunal considered the nature of injuries, evidence of Doctor and Judgment relied on, reduced percentage of disability to 35% and granted compensation for 35% of disability at the rate of Rs.3,000/- per percentage and fixed 10% disability for the whole body with regard to loss of earning power and granted compensation by applying multiplier method. In addition to the above two heads, the Tribunal also awarded compensation towards loss of income, during treatment period separately to both the appellants. The appellants have not let in any evidence to prove that they require further



treatment and compensation for future medical expenses. Considering the entire materials on record, it is seen that the Tribunal has awarded excessive compensation on different heads. In view of the above, the appellants are not entitled for any enhancement of compensation.

10. In the result, both these appeals are dismissed and sum of Rs.5,21,700/- and Rs.3,77,300/- awarded by the Tribunal as compensation to the appellants/claimants respectively, along with interest and costs are confirmed. The respondent/Transport Corporation is directed to deposit the award amount 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 to the credit of 6705 & 6706 of 2013 respectively. On such deposit, the appellants/claimants are permitted to withdraw their award amount along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. No costs.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

nl

To

1. The Motor Accident Claims Tribunal, (III Small Causes Court)
Chennai

2. The Record Keeper,
V.R. Section, High Court, Chennai.

+2cc to Mr.K.V.Varadhakamaraj, Advocate SR.No.16424, 16425

+1cc to Mr.S.Sivakumar, Advocate SR.No.16806

C.M.A.Nos.746 & 747 of 2018

SPD(CO)
GMY(28/08/2019)