

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.A.No.2602 of 2019

Veerappan

.. Appellant/Petitioner

Vs.

Managing Director,
Tamilnadu State Transport Corporation Ltd.,
No.3/137, Salamedu, Vazhuthareddi Post,
Villupuram. .. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 21.03.2019 made in M.C.O.P.No.3688 of 2015 on the file of Motor Accident Claims Tribunal, I Additional Sub Court, Cuddalore.

For Appellant : Mr.S.Udayakumar

For Respondent : Mr.K.J.Sivakumar

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 21.03.2019 made in M.C.O.P.No.3688 of 2015 on the file of Motor Accident Claims Tribunal, I Additional Sub Court, Cuddalore.

2.The appellant is claimant in M.C.O.P.No.3688 of 2015 on the file of Motor Accident Claims Tribunal, I Additional Sub Court, Cuddalore. He filed the said claim petition claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by him in the accident that took place on 23.08.2015. 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/Transport Corporation to pay a sum of Rs.1,70,500/- 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.

3.The learned counsel appearing for the appellant contended that the Tribunal failed to consider the material documentary evidence produced by the appellant. The appellant is aggrieved by the quantum awarded by the Tribunal which is very much on the meagre side by taking the monthly income of the appellant at Rs.6,500/- who is mason by profession. The injuries sustained by the appellant totally affects the occupation of the appellant. Hence the Tribunal ought to have adopted the multiplier method for arriving the quantum. It is further contended by the learned counsel that the Tribunal has not awarded sufficient amount for future medical expenses and pain & suffering. Due to the injuries sustained by the appellant, he could not continue his work as he was doing earlier. The sum awarded by the Tribunal under different heads are also meagre and prayed for enhancement of compensation.

4.Per contra, the learned counsel appearing for the respondent/Transport Corporation contended that the Tribunal only after considering both oral and documentary evidence in proper perspective, has awarded compensation which is not excessive and prayed for dismissal of the appeal. He also pointed out that there is an error while calculating the total Award amount and it should be Rs.1,70,500/- and not Rs.1,46,500/-.

5.Heard Mr.S.Udayakumar, learned counsel appearing for the appellant and Mr.K.J.Sivakumar, learned counsel appearing for the respondent/Transport Corporation and perused all the materials available on record.

6.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 Government Headquarters Hospital, Cuddalore. To prove the same, he examined himself as P.W.1 and the appellant was referred to Medical Board and the Medical Board has assessed 23% 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 mason and was earning a sum of Rs.15,000/- per month but the appellant has failed to prove the same. This Court by considering the year of the accident i.e. 2015, inclined to enhance the notional income to Rs.7,500/- and

also considering the fact that due to the injuries, the appellant could not have worked atleast for three months, grants sum of Rs.22,500/- (7,500 x 3) towards temporary loss of income. Since the sum awarded by the Tribunal towards attendant charges is meager, the same is enhanced to Rs.5,000/-. The Tribunal has not awarded any sum towards medical expenses, hence a sum of Rs.5,000/- is granted towards medical expenses. The sum awarded by the Tribunal under all other heads are properly considered by the Tribunal and does not require any modification. 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)
1.	Partial permanent disability	93,000/-	93,000/-
2.	Transport to Hospital	5,000/-	5,000/-
3.	Extra nourishment	10,000/-	10,000/-
4.	Attender charges	3,000/-	5,000/-
5.	Pain & suffering and mental agony	30,000/-	30,000/-
6.	Loss of amenities	10,000/-	10,000/-
7.	Temporary loss of income	19,500/-	22,500/-
8.	Medical expenses	-	5,000/-
	Total	Rs.1,70,500/-	Rs.1,80,500/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,70,500/- is enhanced to Rs.1,80,500/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. No costs.

8. 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 six 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.

Sd/-
Assistant Registrar (Admn II)

//True copy//

Sub Assistant Registrar

mtl

To

1.The I Additional Subordinate Judge,
Motor Accidents Claims Tribunal,
Cuddalore.

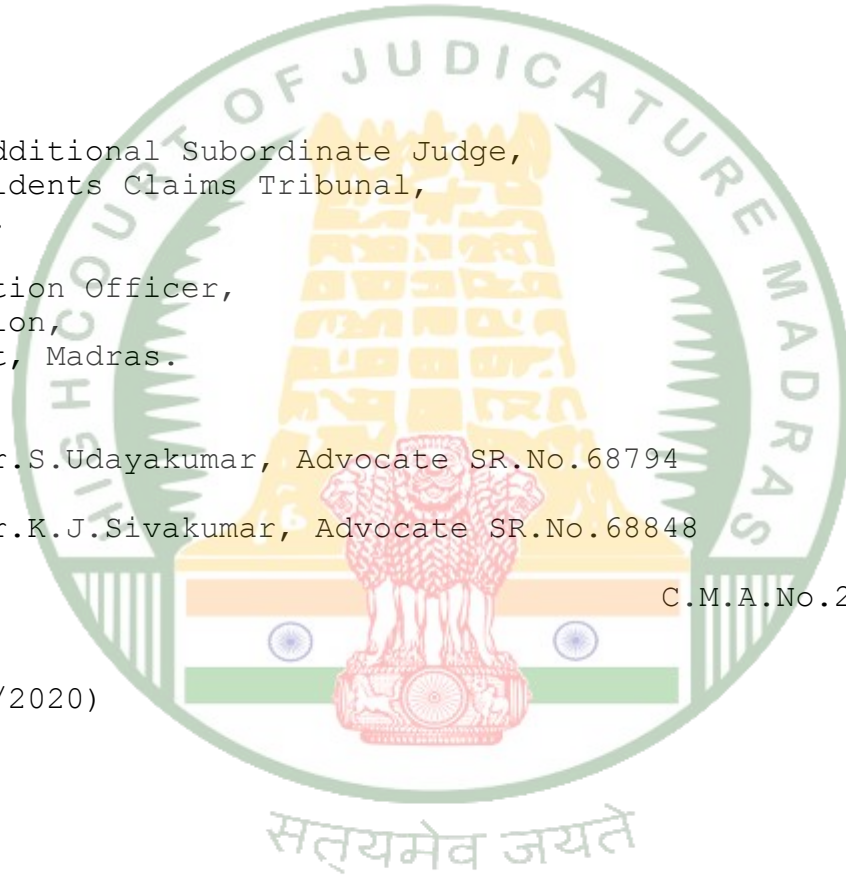
2.The Section Officer,
V.R. Section,
High Court, Madras.

+1cc to Mr.S.Udayakumar, Advocate SR.No.68794

+1cc to Mr.K.J.Sivakumar, Advocate SR.No.68848

C.M.A.No.2602 of 2019

SSD (CO)
GMY (11/02/2020)



WEB COPY