

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2019

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.37 of 2014

B.Padmanabhan

.. Appellant/Petitioner

Vs.

Metropolitan Transport Corporation
[Chennai Division] Ltd., rep. By its
Managing Director, Pallavan Salai,
Chennai - 600 002.

.. Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 13.12.2012 made in M.C.O.P.No.3770 of 2010 on the file of Motor Accident Claims Tribunal, XVII Additional Judge, Chennai.

For Appellant : Mr.R.Kalai Arasan

For Respondent : Mr.S.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 13.12.2012 made in M.C.O.P.No.3770 of 2010 on the file of Motor Accident Claims Tribunal, XVII Additional Judge, Chennai.

2.The appellant is claimant in M.C.O.P.No.3770 of 2010 on the file of Motor Accident Claims Tribunal, XVII Additional Judge, Chennai. He filed the said claim petition claiming a sum of Rs.3,00,000/-as compensation for the injuries sustained by him in the accident that took place on 13.09.2010.

3.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.99,000/- 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. Heard Mr.R.Kalai Arasan, learned counsel appearing for the appellant / claimant and Mr.S.Sivakumar, learned counsel appearing for the respondent.

5. A perusal of the records shows that the claimant has sustained fracture of right clavical bone and injuries all over the body. Dr.Tr.K.J.Mathiazhagan (PW2) has assessed the partial permanent disability as 30% and the Tribunal has reduced the same to 20% and awarded a sum of Rs.2,000/- per percentage of disability. Considering the nature of injuries and the year of the accident, the Tribunal had rightly awarded a sum of Rs.40,000/- towards disability. It is seen from the claim petition that the claimant was working as a Surveillance Detective, earning a sum of Rs.12,000/- per month. Since the accident took place in the year 2010, the Tribunal had rightly fixed Rs.12,000/- as notional monthly income of the claimant. As the claimant had sustained fracture of right clavical bone he would not have been in a position to attend to his routine work atleast for three months and therefore a sum of Rs.36,000/- (Rs.12,000/- x 3 months) is awarded towards "loss of income". The claimant took treatment as out patient at Royapettah Hospital and subsequently he took treatment at Apollo Hopsital as an in-patient from 13.09.2010 to 23.09.2010. The Tribunal has not awarded any amount towards attendant charges and this Court awards a sum of Rs.5,000/-. The amounts awarded by the Tribunal towards pain & sufferings, nutrition and transportation are meager and the same are enhanced to Rs.20,000/-, Rs.5,000/- and Rs.5,000/- under those heads respectively. The award passed by this Court under various heads is extracted hereunder:

S.No.	Head	Amount granted by this Court
1.	Disability	Rs.40,000/-
2.	Pain and sufferings	Rs.20,000/-
3.	Nutrition	Rs.5,000/-
4.	Transportation	Rs.5,000/-
5.	Vehicle repair charge	Rs.4,000/-
6.	Loss of income	Rs.36,000/- (Rs.12,000/- x 3 months)
7.	Attendant charges	Rs.5,000/-
8.	Extra Nourishment	Rs.4,000/-
Total		Rs.1,19,000/-

6.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.99,000/- is hereby enhanced to Rs.1,19,000/- 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 six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant/claimant 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 II)

//True Copy//

Sub Assistant Registrar

To

1.The XVII Additional Judge,
Motor Accidents Claims Tribunal,
Chennai.

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

+1 cc to Mr.N.M.Muthurajan, Advocate, sr.102317

+1 cc to Mr.S.Sivakumar, Advocate, sr.102294.

Br(co)
krd 6/10

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