

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.50 of 2014

A.Ravindran

...Appellant/Claimant

vs.

The Managing Director,
Tamil Nadu State Transport Corp. Ltd.,
Kancheepuram,
Kancheepuram District.

... Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 30.12.2009 passed in MCOP.No.666 of 2007 on the file of the Motor Accident Claims Tribunal / Subordinate Judge, Thiruvallur.

For Appellant : Mr.K.Ponnusamy
For Respondent : Mr.K.J.Sivakumar

J U D G M E N T

The appellant is the claimant in MCOP.No.666 of 2007 on the file of the Motor Accident Claims Tribunal / Subordinate Judge, Thiruvallur. He filed the claim petition under Sections 166 and 140 of the Motor Vehicles Act, 1988 and Rule 3 of MACT Rules seeking compensation of Rs.2,00,000/- for the injuries sustained by him in a road accident on 21.06.2007.

2. The case of the claimant is that on 21.06.2007, he was a pedestrian on Thiruvallur - Sengundram road, near Gowdi Church and at about 12.30 hours, a speeding bus bearing Registration No. TN 32 N 2031 belonging to the Tamil Nadu State Transport Corporation hit him, as a result of which, he sustained grievous injuries.

3. According to the claimant, the accident took place due to the rash and negligent driving of the driver of the bus belonging to the respondent / Tamil Nadu State Transport Corporation and therefore, they are liable to pay compensation.

4. The Tamil Nadu State Transport Corporation contested the claim petition and the learned Subordinate Judge / Motor Accident Claims Tribunal, Thiruvallur after analysing the evidence on record, awarded a compensation of Rs.1,05,000/- together with interest at the rate of 7.5% per annum to the claimant. Not being satisfied with the quantum of compensation awarded by the Tribunal, the Tamil Nadu State Transport Corporation has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Heard Mr.K.Ponnusamy, learned counsel appearing for the appellant and Mr.K.J.Sivakumar, learned counsel for the respondent.

6. A perusal of the discharge summary (Ex.P2) shows that the claimant had sustained (i) sutured wound-6cm over upper lip, (ii) fracture of right clavicle, (iii) fracture of rib and (iv) fracture of pubic ramus. Dr.J.R.R.Thiagarajan (PW2) has assessed the partial permanent disability as 75%. Since the disability of 75% cannot be for the whole body disability, 20% disability is taken up for calculating "loss of earning capacity". Since the appellant / claimant was aged 31 years on the date of the accident, the proper multiplier to be adopted in the instant case is 16, as per the decision in Sarlavarma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121. In the claim petition, it is contended that the appellant / claimant is a daily wage labourer, earning a sum of Rs.150/- per day. Considering the year of the accident, a sum of Rs.4,500/- is fixed as the notional monthly income of the appellant / claimant.

Loss of earning capacity:

= Rs.4,500/- x 12 x 16 x 20/100

= Rs.1,72,800/-

On account of the accident, the appellant / claimant would not have been in a position to attend to his routine work atleast for 3 months and therefore, a sum of Rs.13,500/- (Rs.4,500/- x 3 months) is awarded towards "loss of income". The award passed by this Court under various heads is extracted hereunder:

S.No	Head	Amount granted by this Court
1.	Loss of earning capacity	Rs.1,72,800/-
2.	Pain and sufferings	Rs.10,000/-
3.	Transportation	Rs.5,000/-
4.	Extra nourishment	Rs.5,000/-
5.	Attender's charges	Rs.2,000/-

S.No .	Head	Amount granted by this Court
6.	Damage to clothes	Rs.500/-
7.	Loss of income	Rs.13,500/-
8.	Medical Bills	Rs.5,311
Total		Rs.2,14,111/-

7. In the result,

(i) The Civil Miscellaneous Appeal is allowed. No costs.

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.1,05,000/- to Rs.2,14,111/-, which shall carry interest at the rate of 7.5% per annum.

(iii) The respondent / Tamil Nadu State Transport Corporation is directed to deposit the enhanced compensation amount i.e., Rs.2,14,111/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP.No.666 of 2007 on the file of the Motor Accident Claims Tribunal / Subordinate Judge, Thiruvallur within a period of four weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the appellant / claimant is at liberty to withdraw the same after following due process of law.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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

2.VR Section,
High Court of Madras,
Chennai.

+1 cc to M/s.Anand and Surya, Advocate Sr.No. 94697

+1 cc to M/s.K.J.Sivakumar, Advocate Sr.No. 94707

CMA.No.50 of 2014

CP(CO)

RMP(02/09/2020)