

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2919 of 2019

Muthusamy

... Appellant/Claimant

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation
Limited (Salem Division - 1),
No.12, Ramakrishna Road,
Salem - 636 007.

... Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 27.03.2019 made in M.C.O.P.No.728 of 2012 on the file of the Motor Accident Claims Tribunal, Sub Court, Sankari.

For Appellant : Mr.T.S.Arthanareeswaran

For Respondent : Mr.D.Venkatachalam

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation of the award dated 27.03.2019 made in M.C.O.P.No.728 of 2012 on the file of the Motor Accident Claims Tribunal, Sub Court, Sankari.

2.The appellant is the claimant in M.C.O.P.No.728 of 2012 on the file of the Motor Accident Claims Tribunal, Sub Court, Sankari. He filed the above said claim petition, claiming a sum of Rs.20,00,000/- as compensation for the injuries sustained by him in the accident that took place on 06.11.2012.

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.10,40,000/- as compensation to the appellant.

4. Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

5. The learned counsel appearing for the appellant contended that the right leg below knee of the appellant was amputated and the appellant has spent a sum of Rs.1,00,000/- towards fixing artificial leg. The appellant was a mason by profession and was earning a sum of Rs.15,000/- per month. The Tribunal erred in fixing monthly income of the appellant at Rs.6,500/-, which is meager. The appellant was aged 40 years at the time of accident and the Tribunal has not granted any enhancement towards future prospects. The amount awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

6. Per contra, Mr.D.Venkatachalam, learned counsel appearing for the respondent-Transport Corporation contended that the Tribunal has rightly applied multiplier method for granting compensation towards loss of earning capacity, which is not meager. The Tribunal considering the nature of injuries and treatment taken by the appellant, awarded compensation under different heads which are not meagre and prayed for dismissal of the appeal.

7. Heard the learned counsel appearing for the appellant as well as the respondent-Transport Corporation and perused the entire materials on record.

8. From the materials available on record, it is seen that the appellant has contended that he was working as mason and was earning a sum of Rs.15,000/- per month. Except the oral evidence, the appellant has not filed any documents to substantiate the same. Therefore, the Tribunal fixed monthly income of the appellant at Rs.6,500/-. The Medical Board assessed that appellant suffered 75% disability. The Tribunal, considering the nature of work, injuries, disability certificate applied multiplier method and granted compensation for loss of earning capacity. The accident occurred in the year 2012 and the monthly income fixed by the Tribunal is meager. Therefore a sum of Rs.7,500/- including future prospects is fixed by this Court as notional monthly income of the appellant. Accordingly, the compensation awarded by the Tribunal is hereby enhanced to Rs.10,12,500/- [Rs.7,500/- X 12 X 15 X 75/100].

9. The learned counsel for the appellant contended that the right leg below knee of the appellant was amputated and the appellant has spent a sum of Rs.1,00,000/- towards fixing artificial leg. The Tribunal has not awarded any amount for fixation of artificial leg. The appellant is entitled to a sum

of Rs.1,00,000/- towards fixation of artificial leg. The appellant has taken treatment in the hospital as in-patient for eight days from 15.11.2012 to 22.11.2012. The amount granted by the Tribunal at Rs.3,000/- towards attendant charges is meager and hence the same is enhanced to Rs.10,000/-. The Tribunal has not granted any amount towards loss of amenities. Therefore, a sum of Rs.10,000/- is granted by this Court towards loss of amenities. The amounts awarded by the Tribunal under other heads are not meager and hence the same are confirmed. 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)	Award confirmed or enhanced or granted
1.	Loss of earning capacity	8,78,000/-	10,12,500/-	Enhanced
2.	Pain and suffering	50,000/-	50,000/-	Confirmed
3.	Extra nourishment	20,000/-	20,000/-	Confirmed
4.	Medical expenses	84,000/-	84,000/-	Confirmed
5.	Attendant charges	3,000/-	10,000/-	Enhanced
6.	Transportation	3,000/-	3,000/-	Confirmed
7.	Damage to cloth	2,000/-	2,000/-	Confirmed
8.	Loss of amenities	-	10,000/-	Granted
9.	Fixation of artificial leg	-	1,00,000/-	Granted
	Total	Rs.10,40,000/-	Rs.12,91,500/-	enhanced by Rs.2,51,500/-

10. In the result, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.10,40,000/- is hereby enhanced to Rs.12,91,500/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant is directed to pay the Court fee if any, for the enhanced award amount now determined by this Court. 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 twelve 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 by making necessary applications before the Tribunal. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

The Subordinate Judge,
Motor Accident Claims Tribunal,
Sankari.

+2cc to M/s.T.S.Arthanareeswaran, Advocate sr.100308
+1cc to M/s.D.Venkatachalam, Advocate Sr.100509

C.M.A.No.2919 of 2019

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srg 24/02/2020



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