

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1006 of 2017

Srinivasan

.. Appellant /Petitioner

Vs.

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Chennai - 2.

.. Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 18.11.2016 made in M.C.O.P.No.5930 of 2014, on the file of the Motor Accidents Claims Tribunal IV Court of Small Causes, Chennai.

For Appellant : Mr.A.Gokulakrishnan

For Respondent : Mr.K.S.Suresh

J U D G M E N T

Being dissatisfied with the quantum of compensation awarded by the Tribunal, the claimant has filed the present Civil Miscellaneous Appeal, seeking enhancement of the same.

2.The case in brief, is as follows:

On the fateful day, i.e., on 18.08.2014, at about 08.30 hours, the appellant/claimant was proceeding as a pedestrian to cross the 6th Main Road Junction, Anna Nagar, Chennai from South to West direction. At that time, the bus bearing Reg.No.TN-01-N-7763 belonging to the respondent Transport Corporation, came behind in a rash and negligent manner and dashed against the appellant/claimant. As a result of the same, the appellant sustained grievous injuries, for which, he filed a claim petition, claiming a compensation of Rs.15,00,000/- before the Tribunal. The Tribunal, after considering the oral and documentary evidence, awarded a compensation of Rs.1,64,800/- with interest at the rate of 7.5% per annum from the date of petition. Challenging the same, the appellant is before this

Court with the present appeal.

3.The learned counsel for the appellant/claimant has submitted that the Tribunal has awarded a sum of Rs.1,05,000/- towards "permanent disability", which is inadequate. The learned counsel further submitted that the compensation awarded under other heads are very meagre and the same have to be enhanced substantially.

4.Per contra, the learned counsel for the respondent/Transport Corporation has submitted that after properly analysing the materials and evidence, the Tribunal has awarded the compensation, which is just and reasonable and hence, the same does not require any interference in the hands of this Court.

5.Heard the learned counsel on either side and perused the materials available on record.

6.This is the claimant's appeal seeking enhancement of the compensation awarded by the Tribunal and hence, there is no requirement for this Court to go into the question on negligence and the liability of the respondent Transport Corporation to pay compensation.

7.As regards the quantum of compensation, the appellant/claimant has been examined as P.W.1. He has stated in the claim petition that he was aged about 37 years and was earning Rs.20,000/- per month as a Finance Consultant; that due to the impact of the accident, he sustained fracture of tibia upper third right, fracture of Olecranon left and multiple injuries all over the body. The Doctor, who treated the claimant, was examined as P.W.2 and according to him, the appellant/claimant sustained 70% permanent disability. However, the Tribunal has fixed the permanent disability of the appellant/claimant only at 35% considering the injuries sustained by the claimant. Ex.P21 is the Disability Certificate issued by P.W.2-Doctor and Exs.P13, 14, 15, 16 and 22 are the X-rays. The Tribunal has awarded a sum of Rs.1,05,000/- for disability at the rate of Rs.3000/- per percentage of disability. Considering the injuries and the fractures sustained by the claimant, this Court is of the considered view that the Tribunal ought not to have reduced the percentage of disability fixed by the Doctor from 70% to 35% and it should have retained the disability fixed by the Doctor at 70%. If that is done, the compensation towards permanent disability works out to Rs.2,10,000/-. Accordingly, the amount awarded by the Tribunal towards permanent disability stands modified to Rs.2,10,000/-. The amount awarded by the Tribunal

towards other heads are reasonable and hence the same are confirmed. The details of the modified compensation are as follows:

HEADS	AMOUNT (Rs.)
70% permanent disability	2,10,000/-
Pain and suffering	30,000/-
Extra nourishment	3,000/-
Transportation expenses	3,000/-
Damages to clothes	500/-
Attender charges	600/-
Medical expenses	10,124/-
Future medical expenses	2,500/-
Loss of income	6,500/-
Loss of amenities	3,500/-
TOTAL.....	2,69,724/-
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	(Rounded off to Rs.2,69,800/-)

Thus, the claimant is entitled to the modified compensation of Rs.2,69,800/- with interest at the rate of 7.5% per annum from the date of petition.

8. In the result, the Civil Miscellaneous Appeal is partly allowed. The respondent/Transport Corporation is directed to deposit the modified compensation amount, as ordered above, after deducting the amount, if any, already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant / claimant is permitted to withdraw the same on making proper application before the Tribunal. No costs.

-s/d-

सत्यमेव जयते
Assistant Registrar

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Sub-Assistant Registrar

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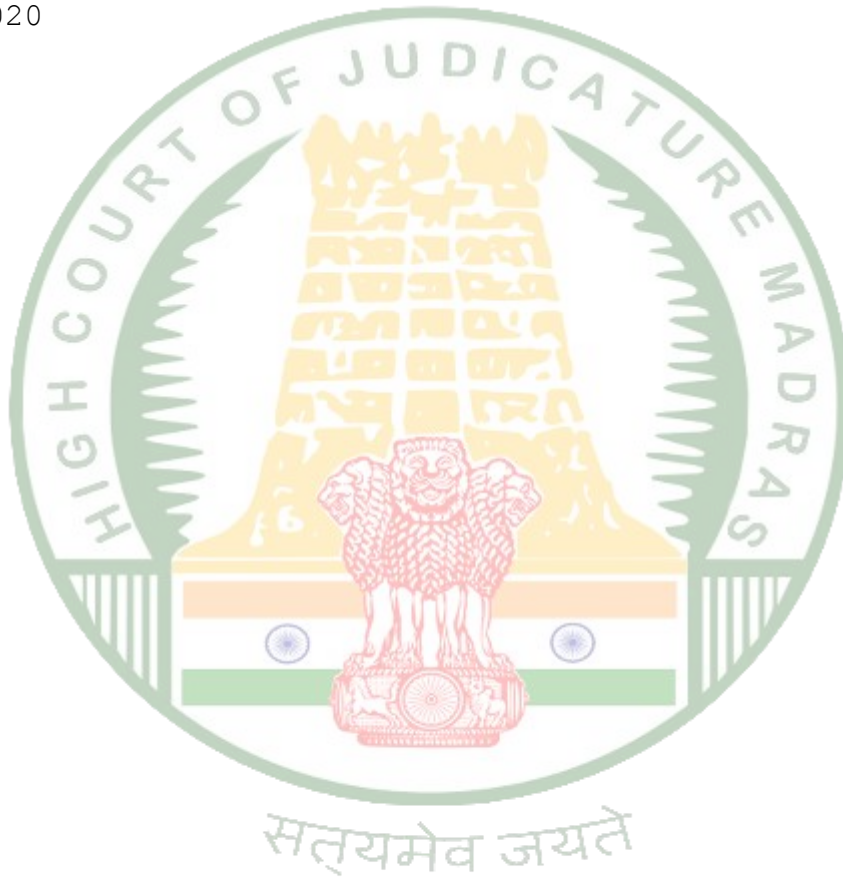
1. The IV Judge Court of Small Causes,
Motor Accidents Claims Tribunal,
Chennai.

2.The Section Officer,
VR Section,
High Court, Madras.

+1 cc to Mr.A.Gokulakrishnan Advocate sr88574

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