

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.533 of 2017

Nagaraj ... Appellant /Claimant

Vs

1.K.Chinnaiyan

2.Tamil Nadu State Transport Corporation Ltd.
rep.by its Managing Director
No.12, Ramakrishna Road, Salem.

3.Tamil Nadu State Transport Corporation Ltd.
rep.by its Managing Director, Karattupalayam,
Anthiyur Post, Bhavani Taluk, Erode District.

(Notice to R1 and R3 may be dispensed with for
the time being since the 1st respondent was set
ex-parte before the Tribunal and the claim was
dismissed against the third respondent).

...Respondents/Respondents

Appeal under Section 173 of the Motor Vehicles Act against
the judgment and decree dated 16.07.2014 made in MCOP No.213 of
2011 on the file of the Motor Accidents Claims Tribunal cum
Subordinate Judge, Bhavani.

For Appellant : Mr.C.Kulanthaivel

For Respondents : Mr.K.J.Sivakumar for R2 and R3

JUDGMENT

This appeal is preferred by the appellant/claimant against
the award of a sum of Rs.55,000/- towards compensation due to
the injuries sustained by him in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 11.10.2010 at about 02.30 p.m.,
the appellant was standing in the Erode Bus Stand near Namakkal
Bus Rack. At that time, the bus bearing Reg.No.TN-30-N-0360

belonging to the second respondent Transport Corporation came from behind in a rash and negligent manner and dashed against the appellant. Due to the said impact, the appellant sustained grievous injuries. The appellant / claimant filed a claim petition before the Tribunal, claiming a sum of Rs.5,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.55,000/- with interest at the rate of 7.5% per annum from the date of petition.

3.Challenging the same, the appellant-claimant has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant /claimant has submitted that even though P.W.2-Doctor has assessed the disability of the claimant at 29%, the Tribunal reduced the same to 15% and awarded a meagre sum of Rs.30,000/- towards permanent disability. He also submitted that the compensation awarded by the Tribunal towards other heads are very meagre and hence the same requires enhancement.

5.The learned counsel for the second respondent / Transport Corporation has submitted that the Tribunal has rightly considered the materials and evidence available on record and has awarded the just, fair and reasonable compensation and hence the same does not require any interference in the hands of this Court.

6.Heard the learned counsel for the appellant and the learned counsel for the respondent Transport Corporation and perused the materials available on record carefully and meticulously.

7.The details of compensation awarded by the Tribunal are as follows:

HEADS	AMOUNT (Rs.)
15% Permanent disability	30,000/-
Medical expenses	1,000/-
Pain and suffering	10,000/-
Extra nourishment	5,000/-
Transportation expenses	2,000/-
Damages to clothes & articles	1,000/-
Loss of income during the treatment period	6,000/-

TOTAL...	55,000/-
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8.Ex.P8 is the Disability Certificate issued by P.W.2-Doctor to the appellant / claimant, as per which the disability of the appellant / claimant has been fixed at 29%. It is seen that the movement of the right leg knee of the claimant has been restricted by 32 degrees and he is suffering great pain and suffering. P.W.2-Doctor deposed before the Tribunal that the appellant / claimant cannot sit in the floor as before and he is experiencing lot of pains to attend even to the nature's call. In the circumstances, P.W.2 certified the disability of the claimant at 29% by issuing Ex.P8-Disability Certificate. This Court is of the considered view that the Tribunal is not correct in reducing the disability to 15% and it would be appropriate to fix the disability of the appellant / claimant at 30% and to award a sum of Rs.3,000/- per percentage of disability. Accordingly, the amount awarded by the Tribunal towards permanent disability is modified from Rs.30,000/- to Rs.90,000/-. Further, awarding a sum of Rs.25,000/- towards pain and suffering, Rs.12,000/- towards loss of earning during the treatment period and Rs.15,000/- towards medical expenses, instead of the amounts awarded by the Tribunal towards the respective heads, will meet the ends of justice. The details of the modified compensation are as follows:

HEADS	AMOUNT (Rs.)
30% Permanent disability	90,000/-
Medical expenses	15,000/-
Pain and suffering	25,000/-
Extra nourishment	5,000/-
Transportation expenses	2,000/-
Damages to clothes & articles	1,000/-
Loss of income during the treatment period	12,000/-

TOTAL...	1,50,000/-
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9.Thus, the appellant / claimant is entitled to the modified compensation of Rs.1,50,000/-. It is made clear that only for the compensation of Rs.55,000/- awarded by the Tribunal, the interest rate of 7.5% per annum shall be calculated from the date of claim petition. For the enhanced amount of Rs.95,000/-, the interest rate of 7.5% shall be calculated from the date of filing of this appeal.

10.The Civil Miscellaneous Appeal is allowed to the extent indicated above. No costs.

11.The second respondent Transport Corporation is directed to deposit the modified compensation as ordered above, less the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant / claimant shall withdraw the same, on making proper application before the Tribunal.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

KM

To

- 1.The Motor Accidents Claims Tribunal,
cum Subordinate Judge, Bhavani.
- 2.The Managing Director,
Tamil Nadu State Transport Corporation Ltd.
No.12, Ramakrishna Road, Salem.
- 3.The Managing Director,
Tamil Nadu State Transport Corporation Ltd.
Karattupalayam,
Anthiyur Post, Bhavani Taluk,
Erode District.
- 4.The Section Officer,
VR Section,
Madras High Court.

+1cc to Mr.C.Kulanthaivel, Advocate SR.80352
+1cc to M/s.K.J.Sivakumar, Advocate SR.80105

GP(CO)
CB(03/03/2020)

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