

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.800 of 2019

Dhakshinamurthy

..Appellant/ Petitioner

Vs.

The Managing Director,  
Metropolitan Transport Corporation Ltd.,  
Anna Salai, 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 14.08.2018 passed in M.C.O.P.No.7200 of 2014 by the Principal Special Judge, MCOP Tribunal, Court of Small Causes, Chennai - 104.

For Appellant : Mr.C.Richard Suresh Kumar

For Respondent : Mr.S.Sivakumar

J U D G M E N T

The Civil Miscellaneous Appeal is filed against the judgment and decree dated 14.08.2018 made in M.C.O.P.No.7200 of 2014 on the file of the Principal Special Judge, MCOP Tribunal, Court of Small Causes, Chennai - 104.

2. The Claimant is the appellant and the appeal is filed, seeking enhancement of compensation mainly on the ground that the award amount is not in commensuration with the gravity of the injury sustained by the claimant. The Tribunal granted a sum of Rs.1,96,000/- as compensation. The accident occurred on 28.12.2013 at about 11.00 hrs at Vyasarpadi, T.H.Road, Opposite to Ramalingam Koil. G3, Traffic Investigation, Kilpauk, Chennai, registered a case in Crime No.400/P2/2013. The claimant had sustained Fracture of Left Leg, Left Hand Injury and multiple injury all over the body.

3. As per the evidence of P.W.1, the claimant was immediately admitted in Government Stanley Hospital, wherein he

was admitted as inpatient and had taken treatment for about 53 days. The claimant was continuously taking treatment in the same hospital as outpatient for several months. The Discharge Summary was marked as Ex.P3 and Ex.P4 is the Wound Certificate and Ex.P5 are Photographs. Ex.P6 relates to the nature of injuries and the period of treatment taken by the claimant. On account of the fracture, the claimant is unable to stand for long time and not in a position to walk freely. He is unable to climb steps and squat on the floor. Raising these grounds, the appellant reiterated that the compensation granted by the Tribunal is inadequate. The claimant was aged about 58 years at the time of accident and therefore, the Tribunal has committed an error in granting lesser compensation.

4. The learned counsel appearing on behalf of the appellant contended that even the loss of income has been calculated for three months, which is inappropriate. The appellant had taken treatment as inpatient for 53 days and thereafter, as outpatient for several months. Therefore, the calculation of loss of monthly income is also erroneous and the compensation granted under the head of Pain and Suffering is also less. The other compensation granted under various heads are also lesser than that of the entitlement of the claimant.

5. This Court is of the considered opinion that the Tribunal adjudicated the issues and arrived a conclusion that the accident was occurred due to the rash and negligent driving of the driver of the Metropolitan Transport Corporation. Accordingly, the negligence was fixed on the driver of the Corporation Bus. Thus, the Transport Corporation is liable to pay compensation to the claimant.

6. As far as the quantum of compensation is concerned, the Doctor assessed the disability as 40% and the Tribunal has taken 35% as disability. A sum of Rs.3,000/- per percentage is fixed and accordingly, the disability compensation of Rs.1,05,000/- was granted. In this regard, this Court do not find any perversity or error. As far as the compensation granted under various other heads are concerned, loss of earnings was granted for three months by assessing the monthly income of the claimant as Rs.10,000/-. Accordingly, Rs.30,000/- was awarded towards loss of earnings. This Court is of the considered opinion that the claimant had undergone treatment as inpatient for about 53 days and thereafter, as outpatient for several months. Under those circumstances, the Tribunal ought to have granted compensation for loss of earnings atleast for six months. Thus, the compensation granted under the head of loss of earnings for three months is inadequate and this Court is inclined to enhance the compensation under the head of loss of earnings from three months to six months and as such, the claimant is entitled for

the compensation for loss of earnings as Rs.60,000/- (6\*10,000=60,000/-). With reference to the other heads, this Court is not inclined to interfere as the compensation fixed is appropriate and accordingly, the same stands confirmed. For all these reasons, the total compensation of a sum of Rs.1,96,000/- (Rupees One Lakh and Ninety Six Thousand only) granted by the Motor Accidents Claims Tribunal is enhanced to Rs.2,26,000/- (Rupees Two Lakhs and Twenty Six Thousand only). The appellant/claimant is entitled for the enhanced compensation of Rs.2,26,000/- (Rupees Two Lakhs and Twenty Six Thousand only)

7. Thus, the respondent/Transport Corporation is directed to deposit the entire award amount along with the interest at the rate of 7.5% per annum within a period of twelve (12) weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant/claimant is permitted to withdraw the entire amount with accrued interest by filing an appropriate application before the Tribunal and the payments are to be made through RTGS.

8. Accordingly, the judgment and decree dated 14.08.2018 made in M.C.O.P.No.7200 of 2014 stands modified and the Civil Miscellaneous Appeal in C.M.A.No.800 of 2019 stands allowed in part. No Costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Kak  
To

1.The Principal Special Judge,  
MCOP Tribunal,  
Court of Small Causes,  
Chennai - 104.

Copy to:

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

+1cc to Mr.C.Richard Sureshkumar, Advocate SR.No. 27725

C.M.A.No.800 of 2019

A.SK(29.03.2021)