

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.10.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1313 of 2013

L.Srinivasan

.. Appellant

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
(VPM - DVN - 1)
Villupram 605 602. ... Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree dated 31.01.2008, made in M.C.O.P. No.2189 of 2003, on the file of the Additional District Judge, Fast Track Court No. IV, (Motor Accident Claims Tribunal) Chennai.

For Appellant : Mr. K.R.Ponnusamy
for M/s. Anand and Suryas

For Respondent : Mr. Vinod
for M/s. C.S.K.Sathish

J U D G M E N T

The matter is heard through "Video Conferencing".

This appeal has been filed for enhancement of the compensation granted by the award dated 31.01.2008, made in M.C.O.P. No.2189 of 2003, on the file of the Additional District Judge, Fast Track Court No. IV, (Motor Accident Claims Tribunal) Chennai.

2.The appellant-claimant filed M.C.O.P. No.2189 of 2003, on the file of the Additional District Judge, Fast Track Court No. IV, (Motor Accident Claims Tribunal) Chennai, claiming a sum of Rs.2,00,000/- as compensation for the injuries sustained by him in the accident that took place on 24.01.2003.

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 to pay a sum of Rs.1,00,000/- as compensation to the appellant.

4. Not being satisfied with the amounts awarded by the Tribunal in the award dated 31.01.2008, made in M.C.O.P. No.2189 of 2003, the appellant has come out with the present appeal.

5. The learned counsel appearing for the appellant contended that the appellant suffered fracture in the right Patella and right wrist and also sustained multiple injuries all over the body. Due to the injuries, he lost his employment. The appellant examined himself as P.W.1 and one Dr.Sai Chandran as P.W.2. P.W.2-Doctor examined the appellant and assessed that the appellant suffered 40% disability. The Tribunal erroneously reduced the percentage of disability to 35% and granted only a meagre sum of Rs.35,000/- towards disability. The Tribunal ought to have awarded compensation by adopting multiplier method. The appellant was working as a Turner in V.M.Engineering Works and was earning a sum of Rs.5,000/- per month. The Tribunal has fixed a sum of Rs.4,000/- per month as notional income and awarded meagre amount of Rs.20,000/- towards loss of income for five months. The amounts awarded by the Tribunal for transportation, pain and suffering and extra nourishment are meagre and prayed for enhancement of the compensation.

6. Per contra, learned counsel appearing for the respondent-Transport Corporation contended that the appellant has not proved that he lost his employment due to the injuries. The assessment of disability by P.W.2-Doctor is excessive. The Tribunal rightly rejected and reduced the percentage of disability to 35%. The accident is of the year 2003. The amounts awarded by the Tribunal is not meagre. The appellant has not made out any case for enhancement of the compensation and prayed for dismissal of the appeal.

7. Heard learned counsel appearing for the appellant as well as the respondent and perused the materials available on record.

8. It is the contention of the appellant that he suffered fracture in the right Patella and right wrist. He has taken treatment as in-patient in Balaji Hospital, Guindy from 24.01.2003 to 30.01.2003, for a period of 7 days. The appellant examined P.W.2 Doctor, who deposed about the nature of injuries and assessed that the appellant suffered 40% disability. P.W.2 Doctor has not deposed that due to the injury, the appellant cannot do any work and has suffered functional disability. Hence, he is not entitled to compensation by adopting multiplier

method. The Tribunal without giving any reason, reduced the percentage of disability to 35% from 40% and granted compensation only for 35% at the rate of Rs.1,000/- per percentage. The accident is of the year 2003. Considering the nature of injuries and date of accident, the appellant is entitled to compensation for 40% disability at the rate of Rs.1,250/- per percentage. Hence, the amount awarded by the Tribunal towards disability is enhanced to Rs.50,000/- [Rs.1,250/- x 40%]. The appellant has taken treatment for a period of 7 days. The Tribunal has not awarded any amount towards attendant charges. Hence, a sum of Rs.5,000/- is awarded towards attendant charges. The amounts awarded by the Tribunal under other heads are just and reasonable and hence, the same are hereby 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.	Disability	35,000/-	50,000/-	Enhanced
2.	Transportation	3,000/-	3,000/-	Confirmed
3.	Extra nourishment	4,000/-	4,000/-	Confirmed
4.	Medical expenses	23,000/-	23,000/-	Confirmed
5.	Pain and suffering	15,000/-	15,000/-	Confirmed
6.	Loss of income	20,000/-	20,000/-	Confirmed
7.	Attendant charges	-	5,000/-	Granted
	Total	1,00,000/-	1,20,000/-	Enhanced by Rs.20,000/-

9. In the result, the appeal is partly allowed and the amount awarded by the Tribunal at Rs.1,00,000/- is enhanced to Rs.1,20,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The respondent is directed to deposit the enhanced award amount, now determined by this Court, along with interest and costs, within a period of twelve weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P. No.2189 of 2003. On

such deposit, the appellant is permitted to withdraw the enhanced award amount, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. It is made clear that the appellant is not entitled for any interest for the delay period on the amount of Rs.20,000/-, enhanced by this Court as per the order of this Court dated 03.04.2013, made in M.P. No. 2 of 2012 in C.M.A. SR. 13209 of 2011. The appellant is directed to pay the court fee, if any, on the enhanced amount of Rs.20,000/-. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

gsa
To

1.The Additional District Judge,
Fast Track Court No. IV,
(Motor Accident Claims Tribunal),
Chennai.

Copy to:

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

+1cc to Mr.Anand and Suryas , Advocate SR.No. 33490

C.M.A.No.1313 of 2013

A.SK(26.02.2021)

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