

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2020

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.1352 of 2013

R.Sachithanandan

... Appellant/Petitioner

Vs.

The Managing Director,

The Metropolitan Transport Corporation Ltd.,

Pallavan Salai, Chennai - 2

... Respondent/Respondent

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the Judgment and Decree dated 03.03.2008 made in M.A.C.T.O.P.No.4846 of 2003 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai.

For Appellant : Mr.F.Terry Chellaraja

For Respondent : Mr.S.Sivakumar

Judgment

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 03.03.2008 made in M.A.C.T.O.P.No.4846 of 2003 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai.

2. The case of the appellant is that on 27.02.2003 at about 5.30 p.m., when the appellant was riding cycle at M.C.Road, Radhakrishnan Nagar, the respondent's bus bearing Registration No.TN-01-N-2268 driven by its driver in a rash and negligent manner hit against him. Due to the impact, the appellant sustained grievous injuries and immediately he was admitted for treatment in Government Hospital, Chennai. At the time of accident, he was aged 24 years, and before the accident, he was working as Machine Operator and was earning Rs.2,000/- per month. Due to the injuries sustained in the accident, he became permanently disabled. Hence he filed a petition before the Motor Accident Claims Tribunal, III Small Causes Court, Chennai, claiming Rs.5,00,000/- as compensation under various heads.

3. Denying the allegations, the respondent transport corporation filed a counter affidavit before the Tribunal stating that when their bus bearing Registration No.TN-01-N-2268 was on its trip from Egmore to Besant Nagar on 27.03.2003, a Cyclist suddenly came from right side lane

without observing the traffic on the main road and hit on the front side of the bus. As a result, he fell down and sustained injuries. The accident was occurred only due to the rash and negligent riding of the Cyclist and not due to the negligence of their driver. Further, it has been stated that the alleged age, occupation, income and disability are not true and the amount of compensation claimed is highly excessive.

4. During the trial, on the side of the appellant, the appellant was examined himself as PW1, one Dr.Saravana Bhavanandam was examined as PW2, one Dr.Rajappa was examined as PW3 and Exs.P1 to P13 were marked. On the side of the respondent, neither any witness was examined nor any document was marked.

5. The Tribunal after considering the pleadings, oral and documentary evidence, allowed the petition in favour of the appellant and awarded Rs.1,01,900/- as compensation as follows :

S.No.	Description	Amount
1.	Loss of Earnings	8,000
2.	Transportation	2,000
3.	Damages to cycle, clothes and Articles	2,000
4.	Extra Nourishment	2,000
5.	Medical Expenses	6,900
6.	Other Expenses	1,000
7.	Partial Permanent Disability	40,000
8.	Pain & Sufferings	20,000
9.	Loss of Amenities	10,000
10.	Loss of Expectation of Life	10,000
	Total	1,01,900

6. Aggrieved by the award, the appellant/claimant has filed this appeal before this Court stating that the Tribunal has erred in awarding the said compensation.

7. Heard the learned counsel for the appellant and the learned counsel for the respondent, and perused the materials available on record.

8. On perusal of the award dated 03.03.2008 passed by the Motor Accident Claims Tribunal, III Small Causes Court, Chennai, it is observed that the appellant had sustained head injury in the accident, and due to which, he was having head ache and severe neck pain and also he had lost his vision slightly. The doctors who examined him had deposed that he sustained 40% partial permanent disability and only based on which the Tribunal had awarded Rs.40,000/- i.e. Rs.1,000/- per

percentage of disability under the said head. Further, it is observed that the Tribunal only after the considering the injuries sustained by the appellant had awarded Rs.8,000/- towards Loss of Earnings and this Court is inclined to confirm the same.

9. It is also observed from the award of the Court below that the Tribunal had not awarded any compensation towards Attender Charges. During the period of treatment, the appellant would have spent some amount for attender. Considering the same, Rs.5,000/- is awarded under the said head. The sum of Rs.2,000/- awarded under the head of Extra Nourishment is found to be meager and the same is hereby enhanced at Rs.5,000/-. The sum awarded under the other heads was properly considered and reasonably awarded by the Tribunal, hence this Court is not inclined to interfere with the same.

10. In view of the observations made by this Court, the compensation awarded by the Tribunal is modified as follows :

S.No .	Description	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted
1.	Loss of Earnings	8,000	8,000	Confirmed
2.	Transportation	2,000	2,000	Confirmed
3.	Damages to cycle, clothes and Articles	2,000	2,000	Confirmed
4.	Extra Nourishment	2,000	5,000	Enhanced
5.	Medical Expenses	6,900	6,900	Confirmed
6.	Other Expenses	1,000	1,000	Confirmed
7.	Partial Permanent Disability	40,000	40,000	Confirmed
8.	Pain & Sufferings	20,000	20,000	Confirmed
9.	Loss of Amenities	10,000	10,000	Confirmed
10.	Loss of Expectation of Life	10,000	10,000	Confirmed
11.	Attender Charges	-	5,000	Granted
	Total	1,01,900	1,09,900	Enhanced by 8,000

11. In the result, this Civil Miscellaneous Appeal is partly allowed and the respondent is directed to deposit the said amount of Rs.1,09,900/- with interest at the rate of 12% per annum from the date of petition till the date of

realization, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this Judgment. No costs.

12. As per the order of this Court dated 08.04.2013 passed in M.P.No.1 of 2011 in C.M.A.No.SR108208 of 2011, the appellant is not entitled to interest for the delay period of 1172 days in filing the above appeal. Hence, the respondent is directed to exclude the delay period while paying the interest. After depositing the entire award amount along with interest, the appellant/claimant is permitted to withdraw the same by filing a formal petition before the Tribunal, less the amount if any, already withdrawn.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

raja

To

1.The Motor Accident Claims Tribunal,
III Small Causes Court, Chennai.

Copy To

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

+1cc to Mr.F.Terry Chella Raja, Advocate, S.R.No. 18108

C.M.A.No.1352 of 2013

RLD (CO)
GN(29/04/2021)