

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.539 of 2009

Abhinavsunderrajan

.. Appellant /Petitioner

Vs.

State Express Transport Corporation,
Tamil Nadu Limited, Chennai - 600 002. .. Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 15.07.2008 made in M.C.O.P.No.5502 of 2003 on the file of Motor Accident Claims Tribunal, IV Small Causes Court, Chennai.

For Appellant : Mr.N.Nagu Sah

For Respondent : Mr.K.J.Sivakumar

J U D G M E N T

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 15.07.2008 made in M.C.O.P.No.5502 of 2003 on the file of Motor Accident Claims Tribunal, IV Small Causes Court, Chennai.

2.The appellant is claimant in M.C.O.P.No.5502 of 2003 on the file of Motor Accident Claims Tribunal, IV Small Causes Court, Chennai. He filed the said claim petition claiming a sum of Rs.11,92,500/- as compensation for the injuries sustained by him in the accident that took place on 02.07.2003.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by the driver of the bus belonging to the respondent and directed the respondent/Transport Corporation to pay a sum of Rs.5,17,415/- as compensation to the appellant.

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4. Not being satisfied with the quantum of compensation awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

5. The learned counsel appearing for the appellant contended that the appellant was aged 19 years at the time of accident, he was I year B.E. student in a Sidha Ganag College of Engineering, Tunkur, Karnataka State. In the accident, the appellant has suffered crush injury on his left leg bone below knee, fractures on right leg, left hand elbow bone, left shoulder and other multiple injuries all over the body. The appellant has taken treatment in the hospital as in-patient for 85 days on different spells. He underwent surgery and skin grafting was done for his right leg. Due to the injuries, he could not able to concentrate on his studies. P.W.2/Doctor has assessed the disability of the appellant as 45% and the disability certificate was marked as Ex.P27. The Tribunal has not awarded any amounts towards attendant charges and loss of amenities. The amounts awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

6. Per contra, the learned counsel appearing for the respondent/Transport Corporation contended that the Tribunal after considering all the materials available on record, awarded just compensation. The appellant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

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

8. It is the contention of the appellant that in the accident he sustained crush injury on his left leg bone below knee, fractures on right leg, left hand elbow bone, left shoulder and other multiple injuries all over the body. He underwent surgery and skin grafting was done on his right leg. He has examined the Doctor as P.W.2, who has assessed the disability of the appellant as 45% and marked the disability certificate as Ex.P27 to prove the injuries. The Tribunal accepting the same, awarded a sum of Rs.45,000/- (Rs.1,000/- X 45%) towards disability by awarding Rs.1,000/- per percentage of disability. The accident is of the year 2003 and the amount awarded by the Tribunal per percentage of disability is meagre. The appellant is entitled to a sum of Rs.56,250/- (Rs.1,250/- X 45%) towards disability by awarding Rs.1,250/-

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per percentage of disability. The amounts awarded by the Tribunal towards extra nourishment, pain & sufferings and loss of studies are meagre. Considering the age, nature of injuries sustained by the appellant and the fact that he was I year B.E. Student and his studies were affected due to the injuries, the compensation awarded by the Tribunal towards extra nourishment, pain & sufferings and loss of studies are enhanced to Rs.25,000/-, Rs.40,000/- and Rs.50,000/- respectively.

9. According to the appellant, he has taken treatment in the hospital as in-patient for 85 days on different spells. The Tribunal has not awarded any amounts towards attendant charges and loss of amenities. Considering the period of treatment taken by the appellant, Rs.25,000/- and Rs.10,000/- are awarded towards attendant charges and loss of amenities respectively. The amounts awarded by the Tribunal under all 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 or reduced
1.	Transport expenses	28,215	28,215	Confirmed
2.	Extra nourishment	1,000	25,000	Enhanced
3.	Damages to clothes	500	500	Confirmed
4.	Medical expenses	3,28,109.24	3,28,109.24	Confirmed
5.	Loss of fees	38,590	38,590	Confirmed
6.	Loss of studies	36,000	50,000	Enhanced
7.	Pain & sufferings	20,000	40,000	Enhanced
8.	Disability	45,000	56,250	Enhanced
9.	For inconvenience	20,000	20,000	Confirmed
10.	Attendant charges	-	25,000	Granted
11.	Loss of amenities	-	10,000	Granted

Total	Rs.5,17,414.24 /- is rounded off to Rs.5,17,415/-	Rs.6,21,664.24 /- is rounded off to Rs.6,21,665/-	Enhanced by Rs.1,04,250/ -
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10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.5,17,415/- is hereby enhanced to Rs.6,21,665/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant is directed to pay necessary Court fee, if any, on the enhanced compensation. The respondent/Transport Corporation is directed to deposit the enhanced award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant is permitted to withdraw the enhanced award amount along with interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

mtl

To

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

2. The Section Officer

V.R. Section

High Court, Chennai. सत्यमेव जयते

+1cc to Mr.K.J.Sivakumar, Advocate SR.23864

+1cc to Mr.N.Nagusah, Advocate SR.23983

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