

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1444 of 2013

Murugesan

.. Appellant/ Petitioner

Vs

The Managing Director
Tamil Nadu State Transport Corporation
Valudareddy,
Villupuram.

.. Respondent/ Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 02.04.2012 made in M.C.O.P.No.349 of 2010 on the file of Motor Accident Claims Tribunal, Principal Sub Court, Vridhachalam.

For Appellant : Mr.S.Udayakumar

For Respondent : Mr.C.S.K.Sathish

J U D G M E N T

सत्यमेव जयते

This matter is heard through "Video Conferencing".

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 02.04.2012 made in M.C.O.P.No.349 of 2010 on the file of Motor Accident Claims Tribunal, Principal Sub Court, Vridhachalam.

2.The appellant is the claimant in M.C.O.P.No.349 of 2010 on the file of Motor Accident Claims Tribunal, Principal Sub Court, Vridhachalam. He filed the said claim petition claiming a sum of Rs.3,00,000/- as compensation for the injuries sustained by him in the accident that took place on 01.09.2010.

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 and directed the respondent/Transport Corporation to pay a sum of Rs.1,16,500/- as compensation to the appellant.

4.Not being satisfied with the amounts 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 Tribunal failed to properly appreciate the oral and documentary evidence let in by the appellant. Due to the injuries, he could not continue his normal work. The Tribunal ought to have awarded compensation by adopting multiplier method. 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 appellant sustained only simple injuries in the accident. The appellant has not proved that he suffered functional disability, lost his earning capacity and hence, he is not entitled to compensation by adopting multiplier method. The amounts awarded by the Tribunal under different heads are not meagre. 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 the entire materials available on record.

8.It is the contention of the appellant that in the accident, he suffered fracture in left fore-arm and multiple injuries all over the body and he has taken treatment in Government Hospital. The appellant examined himself as P.W.1 and deposed to that effect. The Doctor was examined as P.W.2 to prove the nature of injuries. P.W.2/Doctor after examining the appellant, certified that the appellant has suffered 34% partial and permanent disability. P.W.2/Doctor has not deposed that the appellant suffered functional disability and lost his earning capacity. Hence, the appellant is not entitled to compensation by adopting multiplier method. The Tribunal accepting the disability certificate issued by P.W.2/Doctor, granted a sum of Rs.68,000/- as compensation for 34% disability at the rate of Rs.2,000/- per percentage of disability. The accident is of the year 2010 and the appellant is entitled to a sum of Rs.3,000/- per percentage of disability. Thus, the compensation awarded by the Tribunal towards disability is modified to Rs.1,02,000/-

(Rs.3,000/- X 34%). The Tribunal awarded a sum of Rs.13,500/- towards loss of income for three months by fixing a sum of Rs.4,500/- as monthly income of the appellant, which is meagre. Considering the date of accident, the monthly income of the appellant is fixed as Rs.6,500/-. Thus, the compensation awarded by the Tribunal towards loss of income is modified to Rs.19,500/- (Rs.6,500/- X 3). The appellant has produced Ex.P4/x-ray and treatment particulars, Exs.P7 and P8/O.P.chits dated 06.09.2010 and 17.09.2010 respectively. The Tribunal considering the documents produced by the appellant, granted compensation towards pain and suffering, medical expenses, attendant charges and ambulance charge, which are not meagre and hence, the same are hereby confirmed. The Tribunal has not awarded any compensation towards extra nourishment. Considering the nature of injuries sustained by the appellant, a sum of Rs.5,000/- is awarded towards extra nourishment. 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.	Disability	68,000	1,02,000	Enhanced
2.	Loss of income	13,500	19,500	Enhanced
3.	Pain and suffering	17,000	17,000	Confirmed
4.	Medical expenses	10,000	10,000	Confirmed
5.	Attendant charges	3,000	3,000	Confirmed
6.	Ambulance	5,000	5,000	Confirmed
7.	Extra nourishment	-	5,000	Granted
	Total	1,16,500	1,61,500	Enhanced by Rs.45,000/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,16,500/- is hereby enhanced to Rs.1,61,500/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The respondent/Transport Corporation is directed to deposit the 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 award amount now determined by this Court along with interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-
Assistant Registrar(CS V)

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Sub Assistant Registrar

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To

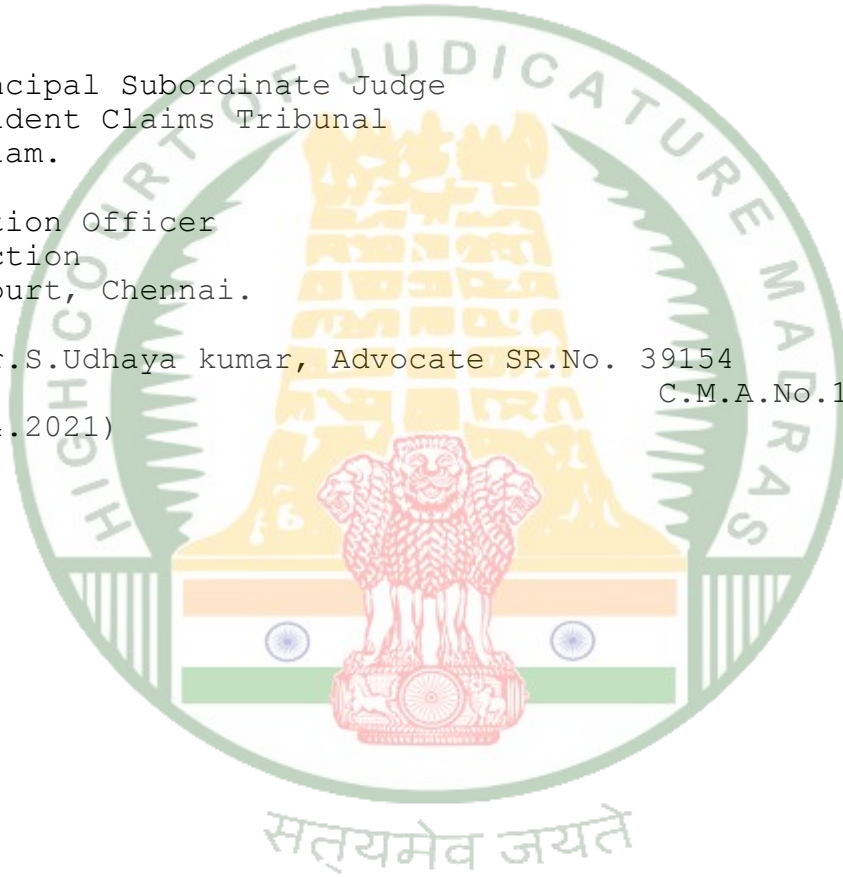
1.The Principal Subordinate Judge
Motor Accident Claims Tribunal
Vridhachalam.

2.The Section Officer
V.R.Section
High Court, Chennai.

+1cc to Mr.S.Udhaya kumar, Advocate SR.No. 39154

C.M.A.No.1444 of 2013

A.SK(09.04.2021)



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