



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1452 of 2013

Mentally Disabled and Blind

S. Saravanan

(rep. By his father and N.F, V. Saminathan)

...Appellant / Claimant

Vs

1.S. Ponraj

2.The Tamilnadu State Transportation

Corporation (Coimbatore Division II) Ltd.,

rep. By its Managing Director,

Chennimalai Road,

Erode 638 001.

...Respondents / Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 24.11.2010, made in M.C.O.P. No.179 of 2009, on the file of the Sub Court, (Motor Accident Claims Tribunal) Perundurai.

For Appellant : Mr. Sriram
for M/s. K. Govi Ganesan

For Respondents : No appearance (For R1)
Ms. A. Indumathi
for M/s. A. Sundaravadhanam (For R2)

J U D G M E N T

The matter is heard through "Video Conferencing".

This appeal has been filed for enhancement of compensation granted by the award dated 24.11.2010, made in M.C.O.P. No.179 of 2009, on the file of the Sub Court, (Motor Accident Claims Tribunal) Perundurai.

2.The appellant, who is a mentally disabled and blind person, represented by his father, filed M.C.O.P. No.179 of 2009, on the file of the Sub Court, (Motor Accident Claims



Tribunal) Perundurai, claiming a sum of Rs.5,00,000/-, as compensation for the injuries sustained by him in the accident that took place on 15.02.2009.

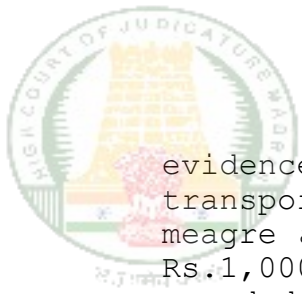
3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the 1st respondent, driver of the Bus belonging to the 2nd respondent-Transport Corporation and directed the respondents to jointly and severally pay a sum of Rs.29,500/- as compensation to the appellant.

4.Not being satisfied with the amounts awarded by the Tribunal in the award dated 24.11.2010, made in M.C.O.P. No.179 of 2009, the appellant has come out with the present appeal.

5.The learned counsel appearing for the appellant contended that in the accident, the appellant sustained contusion in the brain. The Tribunal having found that the blood clot in the brain may be cured or may not be cured, ought to have held that the appellant suffered grievous injuries and has permanent disability. The appellant has become mentally disabled. The Tribunal ought to have awarded more compensation. The appellant filed Ex.P3 - Medical Certificate to show that he is not able to recognise anybody and he requires medical and neurological treatment. The Tribunal failed to consider the evidence of Doctors who are the experts in the medical field. The Tribunal erroneously substituted its own opinion. The Tribunal ought to have personally examined the appellant who appeared in person before it, instead of finding fault with the evidence of Doctors. The Tribunal ought to have granted compensation for permanent disability. The amounts awarded by the Tribunal is meagre and prayed for enhancement of the compensation.

6.Per contra, the learned counsel appearing for the 2nd respondent-Transport Corporation submitted that P.W.2- Doctor who did not treat the appellant deposed that the appellant suffered permanent disability. P.W.2 - Doctor is not the Doctor who treated the appellant and he is not a Neurologist. The Tribunal considering all the materials, concluded that appellant has not suffered permanent disability, by giving valid reason. The compensation awarded by the Tribunal under different heads are not meagre. Hence, appellant is not entitled for any enhancement of the compensation and prayed for dismissal of the appeal.

7.Though notice has been served on the 1st respondent and his name is printed in the cause list, there is no representation for him either in person or through counsel.



evidence, the amounts awarded by the Tribunal towards transportation, extra nourishment and damages to clothes are meagre and the same are enhanced to Rs.7,500/-, Rs.10,000/-, and Rs.1,000/- respectively. The consolidated sum of Rs.5,000/- awarded by the Tribunal towards Doctors fee, hospital charges, medical expenses, attendant charges, food is meagre and hence, the same is enhanced to Rs.10,000/-. The Tribunal has not awarded any amount towards loss of amenities. The appellant is entitled to a sum of Rs.20,000/- towards loss of amenities. P.W.3-Doctor has stated that the appellant requires future medical treatment. Considering the same, a sum of Rs.20,000/- is granted towards future medical expenses. 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.	Transportation	2,000/-	7,500/-	Enhanced
2.	Extra nourishment	2,000/-	10,000/-	Enhanced
3.	Damages to clothes	500/-	1,000/-	Enhanced
4.	Doctors fee, hospital charges, medical expenses and attendant charges, food, etc.,	5,000/-	10,000/-	Enhanced
5.	Pain and suffering	10,000/-	10,000/-	Confirmed
6.	Simple injuries	10,000/-	10,000/-	Confirmed
7.	Loss of amenities	-	20,000/-	Granted
8.	Future medical expenses	-	20,000/-	Granted
9.	Disability	-	1,14,750/-	Granted
	Total	29,500/-	2,03,250/-	Enhanced by Rs.1,73,750/-

11. In the result, the appeal is partly allowed and the amount awarded by the Tribunal at Rs.29,500/- is enhanced to Rs.2,03,250/- together with interest at the rate of 7.5% per



annum from the date of petition till the date of deposit. The respondents are jointly and severally 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.179 of 2009. On such deposit, the father of the appellant is permitted to withdraw the award amount along with accrued interest, for the welfare of the appellant. The appellant is directed to pay the court fee, if any, on the enhanced amount of Rs.1,73,750/-. No costs.

Sd/-
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

gsa

To

1.The Subordinate Judge,
(Motor Accident Claims Tribunal),
Perundurai.

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

+1cc to Mr.K.Govi Ganesan, Advocate SR.No.36575

C.M.A.No.1452 of 2013

VBA (CO)
RVM(13/08/2021)