

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.NO.164 OF 2011

D.Skylab Kumar

.. Appellant/Petitioner

Vs.

The Managing Director,
Metropolitan Transport Corporation Limited (Chennai Division),
Pallavan Salai,
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 29.06.2010 made in M.C.O.P.No.1901 of 2006 on the file of the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai.

For Appellant : Mr.R.Kalai Arasan
For Respondent : Mr.K.Moorthy

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 29.06.2010 made in M.C.O.P.No.1901 of 2006 on the file of the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai.

2.The appellant is the claimant in M.C.O.P.No.1901 of 2006 on the file of the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai. He filed the above said claim petition, claiming a sum of Rs.2,50,000/- as compensation for the injuries sustained by him in the accident that took place on 21.02.2006.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that accident occurred due to rash and negligent driving by the driver of the bus belonging to the respondent-Transport Corporation and directed the respondent-Transport Corporation to pay a sum of Rs.10,250/- 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 at the time of accident the appellant was aged 26 years and was working as Mechanic in Unitech Plasto Component Private Limited, Chennai and earning a sum of Rs.5,000/- per month. Due to the injuries sustained by him in the accident, he has not attended his work for a period of three months and the amount awarded by Tribunal towards loss of income is meagre. The Tribunal ought to have awarded compensation towards loss of income for three months. The interest granted by the Tribunal at 7.5% per annum is meagre. The appellant has taken treatment in the hospital as in-patient for 2 days from 21.02.2006 to 22.02.2006 and the amounts awarded by the Tribunal towards pain and sufferings, extra nourishment, transportation and damages to clothes are meagre and prayed for enhancement of compensation.

6. Per contra, the learned counsel appearing for respondent-Transport Corporation contended that appellant has not produced any documents to show that he has not attended his work and lost his income due to the injuries sustained by him in the accident. Therefore, he is not entitled to compensation towards loss of income for three months and the compensation awarded by the Tribunal towards loss of income is not meagre. The amounts awarded by the Tribunal under different heads are not meagre 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 on record.

8. It is the contention of the appellant that at the time of accident he was aged 26 years and was working as Mechanic in Unitech Plasto Component Private Limited, Chennai and earning a sum of Rs.5,000/- per month. To prove the same, he produced Exs.P5 and P6. The Tribunal after accepting the evidence of appellant and Exs.P5 and P6, awarded a meagre sum of Rs.1,250/- towards loss of income for one week. Due to the injuries sustained by him in the accident, he would not have attended his work atleast for a period of three months. Thus, the amount awarded by the Tribunal towards loss of income is enhanced to Rs.15,000/- [Rs.5,000/- X 3 months]. The appellant has taken treatment in the hospital as in-patient for 2 days from 21.02.2006 to 22.02.2006 and the amounts awarded by the Tribunal towards pain and sufferings, extra nourishment and transportation are meagre and the same are hereby enhanced to Rs.10,000/-, Rs.5,000/- and Rs.2,000/- respectively. The amounts awarded by the Tribunal towards damages to clothes is just and

reasonable and hence, the same is hereby confirmed. The Tribunal has granted interest at the rate of 7.5% per annum, which is not meagre and the same is confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Amount confirmed, enhanced or granted (Rs)
1.	Loss of income	1,250/-	15,000/-	Enhanced
2.	Pain and sufferings	6,000/-	10,000/-	Enhanced
3.	Transportation	1,000/-	2,000/-	Enhanced
4.	Extra nourishment	1,000/-	5,000/-	Enhanced
5.	Damages to clothes	1,000/-	1,000/-	Confirmed
	Total	Rs.10,250/-	Rs.33,000/-	Enhanced by Rs.22,750/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.10,250/- is hereby enhanced to Rs.33,000/- 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 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, to the credit of M.C.O.P.No.1901 of 2006 on the file of the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai. On such deposit, the appellant is permitted to withdraw the enhanced award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. The appellant is directed to pay the necessary Court fee, if any on the enhanced amount of compensation now determined by this Court. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

krk

To

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

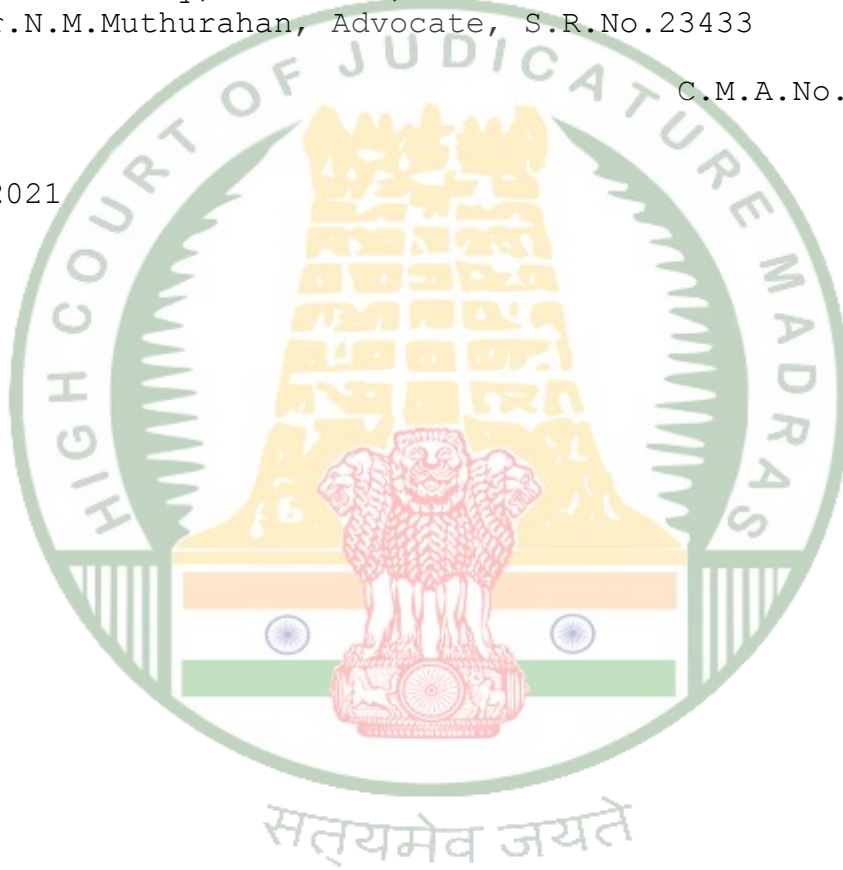
2. The Section Officer,
VR Section, High Court,
Madras.

+lcc to Mr.K.Moorthy, Advocate, S.R.No.23133

+lcc to Mr.N.M.Muthurahan, Advocate, S.R.No.23433

C.M.A.No.164 of 2011

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