

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2020

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.1640 of 2013

P.J.J.Nithiananda Doss

... Appellant/Petitioner

..Vs..

Metropolitan Transport Corporation
(Chennai Division-I) Ltd.,
rep. by its Managing Director,
Anna Salai, Chennai - 600 002.

... Respondent/Respondent

Prayer:

Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 13.12.2011 made in MCOP.No.2963 of 2006 on the file of the Motor Accident Claims Tribunal (V small Causes Court) Chennai.

For Appellant : Mr.K.Varadhakamaraj

For Respondent : Mr.S.Sivakumar

JUDGMENT

(This Appeal has been taken up for hearing through Video Conferencing)

This appeal has been filed by the claimant seeking enhancement of compensation under the impugned award dated 13.12.2011 passed by the Motor Accident Claims Tribunal (Vth Court of Small Causes, Chennai) in MCOP.No.2963 of 2006. The claimant being unsatisfied with the quantum of compensation awarded by the Tribunal has preferred this appeal.

2. The findings of the Tribunal with regard to the cause of the accident as well as the nature of injuries sustained by the Appellant/claimant has also attained finality, since no appeal has been filed by the respondent Transport Corporation challenging the said findings.

3. The claimant sustained injuries as a result of an accident caused by a bus owned by the respondent Transport Corporation on 12.06.2006. He preferred a claim before the Motor Accident Claims Tribunal seeking compensation for the injuries sustained by him as a result of the accident. The appellant/claimant sustained laceration in neutral aspect of ring finger middle phalanx 1 x 0.5 x 0.5 and laceration over dorsal aspect of tip of index finger 1 x 0.5 x 0.5 cm - crush fracture of distal phalanx ring finger. Before the Tribunal, Out-patient chits were filed by the Appellant/claimant which were marked as Ex.P2 and Ex.P3 which proved the nature of the injuries sustained by him. No contra evidence has been produced by the respondent Transport Corporation to disprove the nature of the injuries sustained by the claimant.

4. The Tribunal directed the respondent to pay the Appellant a sum of Rs.40,000/- as compensation together with interest and costs for the injuries sustained by him due to the accident caused by the bus. The details of the award passed by the Tribunal are as follows:

Heads	Award Amount (Rs.)
Permanent Disability	10,000/-
Pain and Suffering	15,000/-
Medical Expenses	1,256/-
Extra Nourishment	7,500/-
Transport to Hospital	1,000/-
Loss of earning	5,000/-
Total	39,756/-
Rounded to	40,000/-

5. The Tribunal has assessed the disability of the claimant at 10%, even though the disability certificate which was marked as Ex.P10 through the doctor PW2 reveals that the Appellant has sustained 15% disability. Without any basis, the Tribunal has reduced the disability of the Appellant to 10% which in the considered view of this Court is not correct. There is also no contra evidence adduced by the respondent Transport Corporation to disprove the contents of the disability certificate Ex.P10. This being the case, the Tribunal ought not to have reduced the disability of the Appellant/claimant on his own without any basis. Therefore, the disability certificate Ex.P10 issued by PW2 which reveals that the Appellant/claimant has sustained 15% disability has to be necessarily accepted by this Court. Accordingly, it is assessed by this Court that the

Appellant/claimant has suffered 15% disability. Further considering the year of the accident which happened on 12.06.2006, the Tribunal ought to have awarded a higher compensation to the claimant. In the considered view of this Court, the disability compensation calculated at the rate of Rs.1,000/- per percent of disability by the Tribunal is low and it has to be enhanced to Rs.1,500/- per percentage of disability. Accordingly, this Court enhances the disability compensation to Rs.22,500/- calculated at the rate of Rs.1,500/- per percentage of disability for 15% disability suffered by the Appellant.

6. The Tribunal has not awarded any compensation towards loss of amenities and attender charges, considering the nature of injuries sustained by the Appellant. Accordingly, a sum of Rs.5,000/- is awarded as compensation towards loss of amenities and another sum of Rs.2,500/- as compensation towards Attender charges to the Appellant/claimant by this Court.

7. For the foregoing reasons, the compensation awarded by the Tribunal under the impugned award is enhanced from Rs.40,000/- to Rs.60,000/- as detailed hereunder:

Heads	Amount Awarded by the Tribunal (Rs.)	Modified Award Amount (Rs.)
Permanent Disability	10,000/-	22,500/-
Pain and Suffering	15,000/-	15,000/-
Medical Expenses	1,256/-	1,256/-
Extra Nourishment	7,500/-	7,500/-
Transport to Hospital	1,000/-	1,000/-
Loss of earning	5,000/-	5,000/-
Loss of amenities	Nil	5,000/-
Attender Charges	Nil	2,500/-
Total	39,756/-	59,756/-
Rounded to	40,000/-	60,000/-

Conclusion

8. In the result, this Appeal is partly allowed by enhancing the award amount from Rs.40,000/- to Rs.60,000/-. The respondent Transport Corporation is directed to deposit the modified award amount after deducting the amount already

deposited if any together with interest from the date of claim till the date of deposit and cost to the credit of MCOP.No.2963 of 2006 within a period of four weeks from the date of receipt of a copy of this judgment. Incase, if it is found that there was a delay by the Appellant in filing this Appeal, the period of delay shall be excluded for the purpose of calculating the interest. On such deposit being made, the appellant is permitted to withdraw the award amount along with accrued interest lying to the credit of MCOP.No.2963 of 2006 by filing an appropriate application. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

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

Copy To

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

C.M.A.No.1640 of 2013

RR(CO)
CS/08/12/2020

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