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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1778 of 2013

R. Padmanabhan

.. Appellant/Petitioner

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Division 1,
Chennai.

.. Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 07.01.2008, made in M.C.O.P. No.5 of 2004, on the file of the II Judge, Small Causes Court, (Motor Accident Claims Tribunal) Chennai.

For Appellant : Mr.F.Terry Chella Raja
for M/s.M.Malar

For Respondent : Mr.K.J.Sivakumar

J U D G M E N T

The matter is heard through "Video Conferencing".

This appeal has been filed for enhancement of the compensation granted by the Tribunal in award dated 07.01.2008, made in M.C.O.P. No.5 of 2004, on the file of the II Judge, Small Causes Court, (Motor Accident Claims Tribunal) Chennai.

2.The appellant-claimant filed M.C.O.P. No.5 of 2004, on the file of the II Judge, Small Causes Court, (Motor Accident Claims Tribunal) Chennai, claiming a sum of Rs.18,00,000/- as compensation for the injuries sustained by him in the accident that took place on 15.05.2003.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to



4. Not being satisfied with the amounts awarded by the Tribunal in the award dated 07.01.2008, made in M.C.O.P. No.5 of 2004, the appellant has come out with the present appeal.

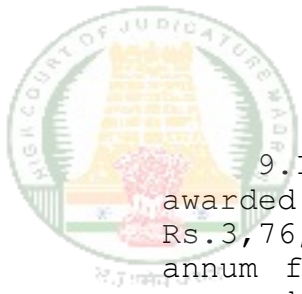
6. Per contra, the learned counsel appearing for the respondent-Transport Corporation contended that the appellant failed to prove that he suffered functional disability and he lost his earning capacity. Without there being any materials with regard to loss of earning capacity, the Tribunal applied multiplier method and awarded excessive amount under the head permanent disability and loss of earning capacity. The appellant has taken treatment as in-patient only for a period of 12 days. The accident is of the year 2003. The Tribunal granted excessive amount of Rs.10,000/- towards attendant charges. The appellant has not made out any case for awarding compensation towards artificial limb and future medical expenses. The Tribunal has awarded excessive amounts under different heads and appellant is not entitled to any enhancement and prayed for dismissal of the appeal.

8. It is the contention of the appellant that due to the injuries sustained by him in the accident, his right arm was amputated and he is not able to do his Finance Business which he was doing earlier. P.W.2-Doctor assessed that the appellant suffered 90% disability. There is no evidence or material on record to show that the appellant suffered functional disability



and lost his earning capacity. According to the appellant, he is doing Finance Business. Considering the nature of business and disability, the appellant would not have lost his earning power. The Tribunal without properly considering the above materials, applied multiplier method for granting compensation instead of applying the percentage method. The appellant also has not placed any materials before the Tribunal to show that he required artificial limb and future medical expenses. Therefore, the appellant is not entitled to any compensation under these heads. The compensation awarded by the Tribunal under different heads are not meagre. The Tribunal has not awarded any amount towards loss of amenities. Considering the amputation, a sum of Rs.15,000/- is granted towards loss of amenities. 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.	Permanent disability and loss of earning capacity	2,88,000/-	2,88,000/-	Confirmed
2.	Pain and suffering and mental agony	20,000/-	20,000/-	Confirmed
3.	Transportation to Hospital	1,000/-	1,000/-	Confirmed
4.	Extra nourishment	2,000/-	2,000/-	Confirmed
5.	Medical expenses	40,285/-	40,285/-	Confirmed
6.	Attendant charges	10,000/-	10,000/-	Confirmed
7.	Loss of amenities	-	15,000/-	Granted
	Total	3,61,285/-	3,76,285/-	Enhanced by Rs.15,000/-



9. In the result, the appeal is partly allowed and the amount awarded by the Tribunal at Rs.3,61,285/- is enhanced to Rs.3,76,285/- 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, 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.5 of 2004. On such deposit, the appellant is permitted to withdraw the enhanced award amount, now determined by this Court, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. The appellant is directed to pay the court fee, if any, on the enhanced amount of Rs.15,000/-. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

gsa

To

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

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

+1cc to M/s.M.Malar, Advocate, S.R.No.35590

C.M.A.No.1778 of 2013

MP(CO)
CT(13/08/2021)