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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.12.2020

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.M.A.No.1182 of 2016

M.Tamilarasu, ... Appellant/Petitioner

/versus/

1.G. Subramani (Exonerated) as per order in memo dated 13.03.2015

2. The Tamil Nadu State Transport Corporation,
(Coimbatore Division II) Ltd.,
Rep. by its Managing Director,
Chennimalai Road,
Erode - 638 002.

3. Bharathi AXA General Insurance Company Ltd.,
1st Floor, Ferns Icon,
Survey No.28, Doddanakudi Village, K.R.Puram, Hobli,
Bangalore - 560 037. ... Respondents/Respondents

(Amended as per order in I.A.No.480 of 2015 dated 23.03.2015).

Prayer: This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, praying to enhance the compensation amount awarded in the Fair and Final Order dated 07.10.2015 made in M.C.O.P.No.531 of 2014 on the file of the Motor Accident Claims Tribunal (Special District Court), Erode.

For Appellant : Mr.C.E.Pratap

For R2 : Mrs.R.T.Sundari

For R3 : No appearance

J U D G M E N T

(The case has been heard through video conferencing)

This Appeal is filed by the claimant seeking enhancement of compensation awarded by the Tribunal.



2. Heard the learned counsel for the appellant and the learned counsel appearing for the Transport Corporation.

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3. It is a case where the claimant sustained injury, while travelling as a pillion rider in a two wheeler. The said accident took place on 29.07.2014. When the motorcycle rider tried to over take the preceding vehicle, dashed against the transport Corporation bus. However, the FIR was registered against the driver of the transport Corporation for his negligence and the trial Court also accepted the negligence on the part of the transport Corporation's driver and the version of the transport Corporation regarding the contributory negligence on the part of the motorcycle rider has been rejected. As far as the compensation is concerned, based on the disability certificate Ex.P-12, the Tribunal has assessed 20% and has awarded Rs.40,000/- as compensation for disability. The discharge summary and medical records indicate that the claimant has sustained the following injuries:

1. Left forearm: Two 3 x 2 cm abrasions present over left forearm. Swelling present. Tenderness, Crepitus, bony irregularity, abnormal mobility present mid 1/3rd distal 1/3rd junction left forearm.
2. Face: Multiple abrasion present over face. Red in colour.
3. Left leg: Multiple abrasion present. Knee outside sutured wound over left leg.

And for the loss of income during the treatment period, the Tribunal has taken Rs.6,500/- p.m as notional income.

4. The learned counsel for the appellant would submit that the claimant was a Mechanical Engineering graduate and he was working as Apprentice in Sakthi Auto Component Limited and earning Rs.9,000/- as stipend per month. Relying upon Ex.P.-14, the learned counsel for the appellant would submit that the Tribunal ought to have fixed Rs.9,000/- per month as loss of income.

5. On considering the over all facts and evidence, this Court is of the view that Rs.40,000/- awarded for the 20% disability has to be enhanced to Rs.60,000/-(3000x20%). Loss of income during 3 months period should be enhanced to Rs.27,000/- (i.e. 9000X3) instead of Rs.19,500/-. Hence, the award of the Tribunal is enhanced as below:



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Sl. No.	Particulars	Award of the Tribunal (Rs.)	Award of this Court (Rs.)	Enhanced/ Confirmed/ Reduced/ Awarded
1.	For Transportation	10,000-00	10,000-00	Confirmed
2.	For Extra nourishment	10,000-00	10,000-00	Confirmed
3.	Loss of Pain and Suffering	25,000-00	25,000-00	Confirmed
4.	For Medical expenditure	5,850-00	5,850-00	Confirmed
5.	For Disability	40,000-00 (20x2000)	60,000-00 (20x3000)	Enhanced
6.	For Loss of income	19,500-00 (6500x3)	27,000-00 (9000x3)	Enhanced
7.	Loss of amenities	10,000-00	10,000-00	Confirmed
8.	For future medical expenditure	10,000-00	10,000-00	Confirmed
	Total	1,30,350-00	1,57,850-00	Enhanced

6. Accordingly, the award of the Tribunal is modified from Rs.1,30,350/- to Rs.1,57,850/- with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The said amount shall be deposited in MCOP account, within a period of eight weeks, from the date of receipt of a copy of this judgment by the Transport Corporation, (less the amount already deposited, if any). On such deposit, the appellant/claimant is permitted to withdraw the amount, (less the amount already withdrawn by him, if any) on filing appropriate petition.



7. In the result, this Civil Miscellaneous Appeal is partly allowed. No order as to costs.

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Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rpl
To

The Motor Accident Claims Tribunal,
(Special District Court),
Erode.

+1cc to Mr.C.E.Pratap, Advocate Sr.42888

C.M.A.No.1182 of 2016

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