

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2020

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.1892 of 2013

B.Chandrasekar

... Appellant

Vs.

The Managing Director,
K.S.R.T.C., Bangalore - 560 027.
Karnataka.

... Respondent

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the Judgment and Decree dated 10.01.2008 made in M.C.O.P.No.2387 of 2002 on the file of the Motor Accidents Claims Tribunal, V Judge, Court of Small Causes, Chennai.

For Appellant : M/s.Y.Jayanthi Bhaskar
For M/s.J.Mahalingam

For Respondent : Mr.V.Ramesh

Judgment

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 10.01.2008 made in M.C.O.P.No.2387 of 2002 on the file of the Motor Accidents Claims Tribunal, V Judge, Court of Small Causes, Chennai.

2. The case of the appellant is that on 13.09.2000 at about 4.00 p.m., while the appellant was traveling by Motorcycle bearing Registration No.TN-2-C-2451 at Poonamallee High Road from East to West direction, the respondent's bus bearing Registration No.KA-01-F-6459 which came from the opposite direction in a rash and negligent manner dashed against the appellant's Motorcycle. Due to the impact, the appellant had sustained grievous injuries all over his body and become permanently disability. Hence, he filed a petition before the Motor Accidents Claims Tribunal, V Judge, Small Causes Court, Chennai, claiming Rs.2,00,000/- as compensation from the respondent.

3. Denying the allegations, the respondent filed a counter affidavit stating that the accident had occurred only due to the rash and negligent driving of the appellant and there was no fault on the part of the respondent's bus driver. Further, the alleged age, occupation and the nature of

injuries are not true and the amount of compensation claimed is highly excessive.

4. The Motor Accidents Claims Tribunal, V Judge, Small Causes Court, Chennai, after considering the pleadings, oral and documentary evidence, allowed the petition in favour of the claimant and awarded Rs.51,000/- as compensation to the claimant. Aggrieved by the award, the appellant/claimant has filed this appeal before this Court seeking for enhancement of the same.

5. Heard the learned counsel for the appellant and the learned counsel for the respondent, and perused the materials available on record.

6. On perusal of the award dated 10.01.2008 passed by the Motor Accidents Claims Tribunal, V Judge, Court of Small Causes, Chennai, it is observed that the appellant in order to prove that the respondent's bus driver is the cause for the alleged accident marked FIR copy as Ex.P2, and only based on which, the Tribunal has come to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the respondent. Further, it is observed that one Dr.Saichandran was examined on the side of the appellant as PW2 and deposed that the appellant has sustained 40% disability due to the accident. In order to prove the same, the appellant has marked the X-Ray and Disability Certificate as Exs.P3 & P4, and on perusal of the same, the Tribunal has found that the appellant has sustained fracture on his right leg bone and lacerated injuries all over his body and thus, he has sustained 40% disability, and therefore, the Tribunal has awarded Rs.40,000/- i.e. Rs.1,000/- per disability under the said head. During the period of treatment, the appellant definitely would have suffered from severe pain and would have incurred expenses for Transport, Extra Nourishment and Attender's Charge, and he would have also lost all his amenities of life and would have suffered physically and mentally, and the Tribunal only after considering all those things has awarded compensation under the said heads. However, the sum awarded under the said heads are all found to be meager and hence, this Court is inclined to modify the same.

7. Accordingly, the compensation awarded by the Tribunal is modified as follows :

S.No	Description	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award Confirmed or enhanced or granted
1	Transport Expenses	1,000	2,500	Enhanced

S.No .	Description	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award Confirmed or enhanced or granted
2.	Extra Nourishment	1,000	2,500	Enhanced
3.	Attender's Charge	1,000	3,000	Enhanced
4.	Mental Strain and Stress	1,000	2,500	Enhanced
5.	Loss of Amenities	1,000	5,000	Enhanced
6.	Inconvenience, Hardship, Discomfort, Disappointment, Frustration and Mental Stress in Life	1,000	2,500	Enhanced
7.	Pain & Sufferings	5,000	10,000	Enhanced
8.	Permanent Disability	40,000	40,000	Confirmed
	Total	51,000	68,000	Enhanced by 17,000/-

8. In the result, this Civil Miscellaneous Appeal is partly allowed. The respondent is directed to deposit the said amount of Rs.68,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the appellant/claimant is permitted to withdraw the same by filing a formal petition before the concerned Court, less the amount if any, already withdrawn. No costs.

सत्यमेव जयते

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

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Sub Assistant Registrar

raja

To

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

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

+1cc to Mr.J.Mahalingam, Advocate, S.R.No. 4662
+1cc to Mr.T.Thiyagarajan, Advocate, S.R.No. 4185

C.M.A.No.1892 of 2013

RR(CO)
GN(03/09/2020)



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