

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.1961 of 2013

S.Sekar

.. Appellant/Petitioner

Vs.

The Managing Director,
Tamil Nadu Transport Corporation,
Bharadhipuram,
Dharmapuri-5.

.. Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 03.09.2007 made in M.C.O.P.No.677 of 2004 on the file of Motor Accident Claims Tribunal, Additional District Judge, Dharmapuri.

For Appellant : Mr.M.Sriram
For Respondent : Mr.D.Venkatachalam

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant seeking enhancement of compensation granted by the Tribunal in the award dated 03.09.2007 made in M.C.O.P.No.677 of 2004 on the file of Motor Accident Claims Tribunal, Additional District Judge, Dharmapuri.

2. The appellant is the claimant in M.C.O.P.No.677 of 2004 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Dharmapuri. He filed the said claim petition claiming a sum of Rs.5,00,000/-as compensation for the injuries sustained by him in the accident that took place on 21.03.2002.

3. The case of the appellant is that on 21.03.2002 at about 01.30PM, the appellant was travelling as a loading and unloading coolie in the Tractor bearing Regn.No.TN-29-C-5484 in Karimangalai to Harur Main road after unloading the sand load. When the tractor was coming near Muruganandham spinning mills, a Corporation Bus bearing Regn.No.TN-29-N-1076 belonging to the respondent driven by its driver in a rash and negligent manner at a high speed, without sounding horn and without minding the

rules of the road, came in the opposite direction and dashed against the tractor and caused the accident. Due to the impact, the appellant and other coolies, who were travelling in the tractor and also the driver of the tractor, were injured.

4. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to the rash and negligent driving by the driver of the Bus belonging to the respondent and directed the respondent to pay a sum of Rs.57,000/- as compensation to the appellant. Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

5. Heard Mr.M.Sriram, learned counsel appearing for the appellant and Mr.D.Venkatachalam, learned counsel appearing for the respondent and perused the materials available on record.

6. A perusal of the records shows that the claimant has sustained multiple grievous injuries all over the body. Dr.Sankar (PW2) has assessed the partial permanent disability as 35% and the Tribunal has accepted the same and awarded a sum of Rs.1,000/- per percentage of disability and awarded a sum of Rs.35,000/- towards "disability", which is just and reasonable. Hence, this Court is not inclined to interfere with the same. The Tribunal has awarded a sum of Rs.1,000/- each towards "Transportation" and "Nutrition" the same is hereby increased to Rs.5,000/- each. The Tribunal has awarded a sum of Rs.10,000/- towards "Pain and Sufferings". The same is hereby enhanced to Rs.15,000/-. The Tribunal has awarded a sum of Rs.10,000/- towards "Loss of amenities", which stands confirmed. The Tribunal has not awarded any amount towards "Attender Charges". This Court awards a sum of Rs.5,000/- for the same. The Tribunal did not award any amount towards "Loss of Income". It is Seen that the claimant was working as a coolie and he has not proved his income in the manner known to law. Hence, this Court is inclined to fix a sum of Rs.4,500/- as a notional income and awards a sum of Rs.9,000/- towards "Loss of income". The award passed by this Court under various heads is extracted hereunder:

S.No.	Head	Amount granted by this Court
1.	Disability	Rs.35,000/-
2.	Pain and sufferings	Rs.15,000/-
3.	Nutrition	Rs.5,000/-
4.	Transportation	Rs.5,000/-
5.	Loss of income	Rs.9,000/-

S.No.	Head	Amount granted by this Court
6.	Loss of amenities	Rs.15,000/-
7.	Attender charges	Rs.5,000/-
	Total	Rs.89,000/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.57,000/- is hereby enhanced to Rs.89,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation. The respondent 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 six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant is permitted to withdraw the enhanced award amount along with interest and costs, less the amount already withdrawn, if any. No costs.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

sbn

To

1. Motor Accidents Claims Tribunal,
Additional District Judge,
Dharmapuri.

Copy To

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

+1cc to Mr.M.Sriram, Advocate, S.R.No. 13319
+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.13206

C.M.A.No.1961 of 2013

RR(CO)
GN(21/04/2021)