

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.01.2020

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.2402 of 2012

G. Karthikeyan Appellant /Petitioner

Vs

The Managing Director
Metro Transport Corporation Ltd.,
Pallavan Salai, Anna Salai,
Chennai - 2. Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed against the Judgment and Decree dated 02.01.2012 and made in M.C.O.P.No.107 of 2007 on the file of the Motor Accident Claims Tribunal, Additional District and Sessions Judge, FTC-I, Poonamallee.

For appellant : Mrs.Y. Jayanthi Bhaskar for
J. Mahalingam
For respondents : Mr. S. Sivakumar

J U D G M E N T

This appeal has been filed by the appellant/claimant seeking enhancement of the compensation awarded by the Motor Accident Claims Tribunal, Additional District and Sessions Judge, FTC-I, Poonamallee in M.C.O.P.No.107 of 2007, dated 02.01.2012 and enhance the award amount.

2. It is the case of the appellant that on 31.10.2006 at about 19.30 hrs, while the appellant was proceeding as a pillion rider in a motor cycle bearing Regn.No. TN-07-AA-3361 at TH road, the rider of the motor cycle stopped the vehicle at VP koil Road junction, at that time the respondent bus bearing

Registration No. TN-01-N-2910 driven by its driver in a rash and negligent manner and dashed against the motor cycle. Due to the impact the appellant was thrown out from the vehicle and sustained fracture of condylar head right side, loss of 5 teeth, injuries over hip, chest and other facial injuries resulting in disfiguration of face and other serious multiple injuries all over the body. Hence, the appellant has filed a claim petition before the Tribunal, claiming a sum of Rs.6,00,000/- as compensation. After analyzing the evidences, the Tribunal awarded a sum of Rs.2,90,000/- as compensation.

3. Not being satisfied with the quantum of compensation awarded by the Tribunal, the appellant has come forward with this appeal before this Court.

4. In order to prove the claim, the appellant examined himself as P.W.1 and the Doctor who treated the appellant was examined as P.W.2. On the side of the respondent, one witness was examined and no evidence was adduced.

5. The learned counsel for the appellant would submit that the Doctor issued disability certificate for 70% but the Tribunal has taken only 50%. He would further contend that without considering the nature of disability the Tribunal awarded Rs.1,00,000/- towards the head loss of future amenities for his disability, which is very meager and prays to enhance the compensation amount.

6. Per contra, the learned counsel appearing for the respondent/ Transport Corporation submitted that the nature of injuries and treatment taken by the appellant was considered in detail and the compensation awarded by the Tribunal is not meager and there is no necessity to enhance the amounts and prayed for dismissal of the appeal.

7. Heard the learned counsel for the appellant as well as the respondent/Transport Corporation and also perused the materials available on record before this Court.

8. With regard to negligence aspect, P.W.1/claimant has deposed that the accident has taken place due to the negligence of the driver of the bus and adduced Ex.P1/FIR and P2/rough sketch copies to substantiate his claim. Complaint was also lodged by one Ramesh on 31.10.2006 as against the driver of the respondent. Based on the above materials produced on the side of the appellant, the Tribunal arrived at a conclusion that the

driver of the bus is the cause for the accident. To controvert the same, no new facts or grounds are forth coming by the respondent. Hence, this Court is not inclined to interfere with the findings rendered on the negligence aspect and the same is confirmed as such.

9. With regard to quantum, the Tribunal based on Exs.p.5 and p.6/Medical bills awarded Rs.1,50,000/- towards Medical Bills. The Salary certificate of the appellant was produced, before the Tribunal and it was shown as Ex.P.6 and considering the same Rs.10,000/- was awarded towards loss of earning. On a perusal of discharge summary/Ex.P.3 the Tribunal arrived Rs.10,000/- each towards

Transport to Hospital, Extra nourishment and pain and sufferings. Based on Ex.p8/Disability certificate Rs.1,00,000/- was awarded towards loss of future amenities for his disability and the same is modified to Rs.1,05,000/-. The amounts awarded under all other heads are reasonable and the same are confirmed as such. Thus, the compensation awarded by the Tribunal is modified as follows:

Sl.N o	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)
1	loss of earnings	Rs.10,000/-	Rs.10,000/-
2	Medical Expense	Rs.1,50,000/-	Rs.1,50,000/-
3	Transport to Hospital	Rs.10,000/-	Rs.10,000/-
4	Extra Nourishment	Rs.10,000/-	Rs.10,000/-
5	Pain and sufferings	Rs.10,000/-	Rs.10,000/-
6	Loss of future amenities for his disability	Rs.1,00,000/-	Rs.1,05,000 /-
	Total	Rs.2,90,000/-	Rs.2,95,000/-

10. With the above said modification this Civil Miscellaneous Appeal is partly allowed. The second respondent-Transport Corporation is directed to deposit the amount now determined by this Court 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 eight weeks from the date of receipt of a copy of this Judgment. On such deposit being made the appellant is permitted to withdraw the modified

award amount, along with interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

smn

To
The Additional District and sessions Judge,
The Motor Accidents Claims Tribunal,
Fast Track Court No.1 Poonamallee

Copy to

The Section Officer
VR Section,
High Court, Madras

C.M.A.No.2402 of 2012

aa02/09/2020



WEB COPY