



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.2214 of 2013

Bottu Naick @ Gottu Naick

.. Appellant

Vs.

The General Manager,
Andhra Pradesh State Road Transport Corporation Ltd.,
Mushirabad, Hyderabad,
Andhra Pradesh.

.. Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 15.02.2011 made in M.C.O.P.No.345 of 2008 on the file of Motor Accident Claims Tribunal, Additional District Judge, Krishnagiri.

For Appellant : Mr.Mukund R Pandiyan

For Respondent: Mrs.G.V.Shoba

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant/claimant seeking enhancement of compensation granted by the Tribunal in the award dated 15.02.2011 made in M.C.O.P.No.345 of 2008 on the file of Motor Accident Claims Tribunal, Additional District Judge, Krishnagiri.

2.The appellant is the claimant in M.C.O.P.No.345 of 2008 on the file of Motor Accident Claims Tribunal, Additional District Judge, Krishnagiri. He filed the said claim petition claiming a sum of Rs.10,00,000/-as compensation for the injuries sustained by him in the accident that took place on 26.04.2003.

3.The case of the appellant is that on 26.04.2003, at about 03.00p.m., the petitioner travelled in the motor cycle bearing registration No.KA 03 J 9961 as pillion rider and the motor



cycle driven by one Prabhakar Reddy, from Pulimadigukothuru Thanda to go to V.Kotta. While thus, they were proceeding near by Pandhyalamadugu village, a bus bearing registration No.AP9Z5480 of Kuppam Depot, came in opposite direction and the driver of the bus drove it in a rash and negligent manner and hit against the motor cycle. Due to the said impact, the petitioner was thrown away from the motor cycle and petitioner sustained injuries on his left leg, left femur and head. Immediately after the accident, the petitioner was taken to Government Hospital, V.Kotta and then he was shifted to Kolar Medical College Hospital.

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/Transport Corporation and directed the respondent/Transport Corporation to pay a sum of Rs.2,37,000/- 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.Mukund R Pandiyan, learned counsel appearing for the appellant / claimant and Mrs.G.V.Shoba, learned counsel appearing for the respondent.

6. A perusal of the records shows that the claimant has sustained injuries on his left leg, left femur and head. Dr.Ashokkumar (PW2) has assessed the partial permanent disability as 65% and the Tribunal has reduced the same to 55%. According to the claimant, he was doing business and earning Rs.5,000/- per month and he did not produce any materials to prove his income. Hence, the Tribunal fixed a sum of Rs.2,000/- towards monthly income. If $1/3^{\text{rd}}$ is deducted towards personal expenses, the loss of income per month is rounded off to Rs.1,300/-. The age of the claimant is found to be 36 years. Hence, the proper multiplier would be 15 and awarded a sum of Rs.1,28,700/- ($1,300 \times 15 \times 12 \times 55/100$). Considering the nature of injuries, this Court is of the view that the amount awarded by the tribunal is very low and the same is hereby enhanced to Rs.1,98,000/- ($2,000 \times 15 \times 12 \times 55/100$). The Tribunal has not awarded any amount towards attendant charges and this Court awards a sum of Rs.5,000/- for the same. The Tribunal has awarded a sum of Rs.4,000/- towards loss of Income during convalescent period.This Court has already enhanced the amount awarded by the tribunal towards disability and loss of income and hence, the amount of Rs.4,000/- awarded by the Tribunal separately towards loss of income is hereby deleted. The amount awarded by the Tribunal under other heads are confirmed hereby. The award passed by this Court under various heads is extracted hereunder:



WEB COPY

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of income	1,28,700/-	1,98,000/-	enhanced
2.	Pain and Sufferings	20,000/-	20,000/-	confirmed
3.	Medical expenses	75,000/-	75,000/-	confirmed
4.	Transportation	5,000/-	5,000/-	confirmed
5.	Extra Nourishment	5,000/-	5,000/-	confirmed
6.	Attendant Charges	-----	5,000/-	awarded
7.	Loss of income during convalescent period	4,000	-----	removed
	Total	Rs.2,37,700/-	Rs.3,08,000/-	enhanced by - Rs.70,300/-

6. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,37,700/- is hereby enhanced to Rs.3,08,000/- together along 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/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 if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant/claimant is permitted to withdraw the enhanced award amount along with interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-

Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

sbn



To

1.The General Manager,
Andhra Pradesh State Road Transport Corporation Ltd.,
Mushirabad, Hyderabad,
Andhra Pradesh.

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

+1cc to Mrs.G.V.Shoba, Advocate SR.No.3736

+1cc to Mr.Mukund R Pandiyan, Advocate SR.No.4405

C.M.A.No.2214 of 2013

VSN(CO)
GMY(01/07/2020)