

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2358 of 2013

B.Prabhu Das Batvari

...Appellant/Petitioner

vs.

Metropolitan Transport Corporation Ltd.,
Rep. by its Mg.Director,
Pallavan Salai,
Chennai - 2.

... Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the fair and decretal order dated 02.04.2013 in M.C.O.P.No.1647 of 2009 on the file of the Motor Vehicle Claims Tribunal, III Judge, Court of Small Causes, Chennai.

For Appellant : Ms.Ramya V.Rao
For Respondent : Mr.S.Sivakumar

JUDGMENT

(This case was heard through Video Conferencing)

This appeal has been filed by the claimant seeking enhancement of compensation under the impugned Award dated 02.04.2013 passed by the Motor Accident Claims Tribunal, III Judge, Court of Small Causes, Chennai in M.C.OP.No.1647 of 2009.

2.Heard Ms.Ramya V.Rao, learned counsel for the Appellant and Mr.S.Sivakumar, learned counsel for the respondent.

3.The Motor Accident Claims Tribunal under the impugned Award has directed the respondent Transport Corporation to pay the Appellant/claimant a compensation of Rs.5,66,555/- together with interest and cost for the injuries sustained by him as a result of an accident on 30.03.2006 caused by a bus owned by the respondent Transport Corporation.

4.The details of the compensation awarded by the Tribunal under the impugned Award are as follows:

Loss of Education	-	Rs.10,000/-
Transport to Hospital	-	Rs.5,000/-
Extra nourishment	-	Rs.7,000/-
Medical expenses	-	Rs.1,49,555/-
Future medical expenses	-	Rs.30,000/-

Attender charges	-	Rs.5,000/-
Pain and suffering	-	Rs.50,000/-
Loss of earning capacity	-	Rs.2,70,000/-

Total		Rs.5,66,555/-

5.The Appellant/claimant unsatisfied with the quantum of compensation awarded by the Tribunal has preferred this appeal.

6.Before the Tribunal, the Appellant/claimant has filed 13 documents which were marked as Exs.P1 to P13 and two witnesses were examined on his side namely, the Appellant/claimant himself as PW1 and the Doctor who examined him as PW2. On the side of the respondent Transport Corporation, no documents were filed but one witness was examined namely, the driver of the bus as RW1.

7.The Appellant/claimant was aged 28 years and was a Ph.D Student at the time of the accident.

8.The Appellant/claimant has sustained the following injuries:

- (a) Fracture soft of femur with type II Right tibia
- (b)Fracture schadyle lateral aspect
- (c)Multiple injuries all over his body

9.The Doctor (PW2) who assessed the disability of the Appellant/claimant has issued the disability certificate which has been marked as Ex.P13 before the Tribunal which discloses that the Appellant/claimant has suffered 65% disability. After giving due consideration to the nature of injuries sustained by the Appellant/claimant, the Tribunal has rightly assessed the whole body disability of the Appellant/claimant at 25%. This Court does not find any scope for interference with regard to the said assessment.

10.The Tribunal has rightly adopted the multiplier method for the assessment of the compensation to the Appellant/claimant towards loss of future earning capacity. However, the Tribunal has erroneously adopted 18 multiplier instead of 17. The Appellant/claimant was aged 28 years at the time of the accident. Therefore, the correct multiplier to be adopted as per the decision of the Hon'ble Supreme Court in the case of Sarla Verma (Smt.) and Others vs. Delhi Transport Corporation and Another reported in (2009) 6 SCC 121 is 17 multiplier and not 18. Accordingly, the same is modified by this Court. If 17 multiplier is adopted, the compensation towards loss of earning capacity will be reduced from Rs.2,70,000/- to Rs.2,55,000/-. Accordingly, the same is reduced by this Court.

11.However, the Tribunal failed to Award any compensation towards loss of amenities which the Appellant/claimant is legally entitled to as per the settled practice. Accordingly, this Court Awards a sum of Rs.15,000/- as compensation towards loss of amenities to the Appellant/claimant.

12.The compensation awarded by the Tribunal to the Appellant/claimant under the heads loss of education at Rs.50,000/-, Rs.5,000/- towards transportation, Rs.7,000/- towards Extra nourishment, Rs.1,49,555/- towards Medical expenses, Rs.30,000/- towards future medical expenses, Rs.5,000/- towards attender charges and Rs.50,000/- towards pain and suffering cannot be considered to be inadequate as alleged by the Appellant/claimant. Accordingly, the same is rejected by this Court.

13.For the foregoing reasons, the total compensation awarded by the Tribunal at Rs.5,65,555/- is confirmed by this Court. But, the same is modified in the following manner:

Heads	Awarded by the Tribunal in Rs.	Modified by this Court in Rs.
Loss of Education	50,000/-	50,000/-
Transport to Hospital	5,000/-	5,000/-
Extra nourishment	7,000/-	7,000/-
Medical expenses	1,49,555/-	1,49,555/-
Future medical expenses	30,000/-	30,000/-
Attender charges	5,000/-	5,000/-
Pain and suffering	50,000/-	50,000/-
Loss of earning capacity	2,70,000/-	2,55,000/-
Loss of amenities	-	15,000/-
Total	Rs.5,66,555/-	Rs.5,66,555/-

14.Accordingly, the impugned Award is modified but the total compensation remains the same. The respondent Transport Corporation is directed to deposit the amount awarded by the Tribunal, after deducting the amount already deposited if any, together with interest at the rate of 7.5% p.a. from the date of claim till the date of realization to the credit of M.C.O.P.No.1647 of 2009, on the file of the Motor Accidents Claims Tribunal, III Judge, Court of Small Causes, Chennai, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the Award amount along with accrued interest lying to the credit of M.C.O.P.No.1647 of

2009 to the bank account of the Appellant/claimant through RTGS, within a period of two weeks thereafter. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

Pam

To

1.The Motor Accident Claims Tribunal,
III Judge, Court of Small Causes,
Chennai.

Copy To

The Section Officer,
Vernacular Section,
Madras High Court.

+1cc to Mr.A.N.Vishwanatha Rao, Advocate, S.R.No. 31821

C.M.A.No.2358 of 2013

PPA (CO)
GN(20/01/2021)



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