

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.972 of 2011

K.Elangovan

... Appellant /Petitioner

Vs.

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan Salai,
Chennai-600 002.

... Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 20.01.2009 made in M.A.C.T.O.P.No.4766 of 2004 on the file of Motor Accident Claims Tribunal, V Judge, Small Causes Court, Chennai.

For Appellant : Mr.C.Munuswamy

For Respondent : Mr.K.Moorthy

JUDGMENT

The Civil Miscellaneous Appeal is filed by the appellant/claimant seeking enhancement of compensation granted by the Motor Accident Claims Tribunal, V Judge, Small Causes Court, Chennai, in the Award dated 20.01.2009 made in M.A.C.T.O.P.No.4766 of 2004.

2.The appellant is the claimant in M.A.C.T.O.P.No.4766 of 2004 on the file of Motor Accident Claims Tribunal, V Judge, Small Causes Court, Chennai. 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 23.09.2004.

3. The case of the appellant is that on 23.09.2004 at about 13.00 hours, when the appellant was proceeding in his cycle along the 86th street from east to west direction and turned towards south at Kamarajar Salai, a MTC bus bearing Regn.No.TN-01-N-3799, which was coming from north to south direction, driven by its driver in a rash and negligent manner without following traffic rules and regulations and dashed against the

appellant's cycle. Due to the impact, the appellant sustained injuries and he was treated as inpatient in the K.K.Nagar GH from 23.09.2004 to 28.09.2004.

4.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the bus bearing Registration No.TN-01-N-3799, belonging to the respondent and directed the respondent to pay a sum of Rs.77,000/- 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.C.Munuswamy, learned counsel appearing for the appellant / claimant and Mr.K.Moorthy, learned counsel appearing for the respondent.

6.A perusal of the records show that the claimant has sustained injuries namely fracture on the left parietal bone, parietal laceration and has undergone treatment as inpatient from 23.09.2004 till 28.09.2004 at K.K.Nagar Government Hospital. P.W2 Dr.J.R.R.Thiagarajan assessed the partial/permanent disability as 30% and the Tribunal has accepted the same and awarded a sum of Rs.33,000/- (Rs.1,100/- per percentage of disability) towards "disability". Considering the nature of injuries and the year of the accident, this Court finds that the reasonable and the same is hereby confirmed. It is seen from the claim petition, at the time of accident the claimant was a student. The Tribunal has awarded a sum of Rs.5,000/- each towards "Transportation" and "Extra Nourishment". Since the amounts awarded under the aforesaid heads are reasonable and the same is hereby confirmed. The Tribunal has awarded a sum of Rs.5,000/- towards "Pain and Suffering" considering the nature of injuries sustained by the appellant this Court is of the view that the same is hereby enhanced to Rs.15,000/-. The Tribunal has awarded a sum of Rs.24,000/- towards "medical expenses". Taking note of the fact that the appellant has taken treatment as inpatient for nearly 6 days and therefore, the same is hereby enhanced to Rs.32,000/-. The Tribunal has awarded a sum of Rs.5,000/- towards "Attender Charges" and the same is hereby confirmed. The Tribunal has not award any amount towards "Damages to clothes and articles" and "Loss of amenities". Considering the facts and circumstances of the case, this Court awarded a sum of Rs.1,000/- towards Damages to clothes and articles and Rs.5,000/- towards loss of amenities. Thus the total compensation of Rs.77,000/- awarded by the Tribunal is enhanced as under:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Disability	33,000/-	33,000/-	confirmed
2.	Medical Expenses	24,000/-	32,000/-	enhanced
3.	Extra nourishment	5,000/-	5,000/-	confirmed
4.	Transportation	5,000/-	5,000/-	confirmed
5.	Attender Charges	5,000/-	5,000/-	confirmed
6.	Loss of amenities	-----	5,000/-	granted
7.	damages to clothes and articles	-----	1,000/-	granted
8.	Pain and sufferings	5,000/-	15,000/-	enhanced
	Total	Rs.77,000/-	Rs.1,01,000/-	enhanced by Rs.24,000/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation of Rs.77,000/- awarded by the Tribunal is hereby enhanced to Rs.1,01,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. 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/claimant is permitted to withdraw the Award amount along with interest and costs. No costs.

Sd/-
Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

sbn

To

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

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

+1cc to M/s.C.Munusamy, Advocate Sr.11767

C.M.A.No.972 of 2011

rr[co]
srg 26/03/2021



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