

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A. No. 2771 of 2013

R. Sathish

.. Appellant /Petitioner

Vs.

Metropolitan Transport Corporation Ltd.,
rep by its.The Managing Director,
Pallavan Salai,
Chennai 600 002.

.. Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 22.06.2009, made in M.C.O.P. No. 3023 of 2007, on the file of the III Court of Small Causes, (Motor Accident Claims Tribunal), Chennai.

For Appellant : Mr. N.M. Elumalai

For Respondent : No appearance

J U D G M E N T

This appeal has been filed for enhancement of the compensation granted by the award dated 22.06.2009, made in M.C.O.P. No. 3023 of 2007, on the file of the III Court of Small Causes, (Motor Accident Claims Tribunal), Chennai.

2.The appellant-claimant filed M.C.O.P. No. 3023 of 2007, on the file of the III Court of Small Causes, (Motor Accident Claims Tribunal), Chennai, claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by him in the accident that took place on 12.04.2007.

3.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 respondent-Transport Corporation Bus and directed the respondent to pay a sum of Rs.3,72,000/- as compensation to the appellant.

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4. Not being satisfied with the amounts awarded by the Tribunal in the award dated 22.06.2009, made in M.C.O.P. No. 3023 of 2007, the appellant has come out with the present appeal.

5. Learned counsel appearing for the appellant contended that due to the accident, the appellant suffered grievous injuries and fractures and he proved the same by examining P.W.2 - Doctor, who assessed that the appellant suffered 70% disability and issued Ex.P12 - Disability Certificate to that effect. The Tribunal has granted only a sum of Rs.70,000/- towards disability at the rate of Rs.1,000/- per percentage of disability. The same is meagre. For the injuries sustained in the accident, the appellant has taken treatment as in-patient in Government Stanley Hospital, Chennai from 12.04.2007 to 07.06.2007, for a period of 56 days, in Aysha Hospital, Kilpauk, Chennai from 13.03.2008 to 23.03.2008, for a period of 11 days and in Vee Care Hospital, Chennai, from 12.02.2009 to 22.02.2009, for a period of 11 days. He has filed Exs.P2, P3 and P8 to substantiate the same. The Tribunal without considering the same, has awarded only meagre amounts towards transportation, attendant charges, extra nourishment, pain and suffering. In any event, the total compensation granted by the Tribunal under different heads are meagre and prayed for enhancement of the same.

6. Though notice has been served on the respondent and their name is printed in the cause list, there is no representation for them either in person or through counsel.

7. Heard learned counsel appearing for the appellant and perused the materials available on record.

8. It is the contention of the appellant that in the accident, he suffered fracture of pelvis, fracture dislocation of left ankle, rupture urethra, urinary tistula and multiple injuries all over the body. He has taken treatment as in-patient in three different spells in three different Hospitals in Chennai for total period of 78 days and filed Exs.P2, P3 and P8 to substantiate the same. P.W.2- Doctor has assessed the percentage of disability suffered by the appellant as 70%. The Tribunal has awarded compensation towards disability at the rate of Rs.1,000/- per percentage for 70% disability. The same is meagre. The accident is of the year 2007. Considering the raise in cost of living, the appellant is entitled to compensation towards disability at the rate of Rs.2,000/- per percentage for 70% disability. Hence, a sum of Rs.1,40,000/- [Rs.2,000/- x 70% disability] is awarded towards disability. Considering the

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period of treatment taken by the appellant as in-patient in Hospital in three different spells, the meagre amounts granted by the Tribunal towards transportation, extra nourishment, future medical expenses, attendant charges, pain and suffering and loss of amenities are enhanced to Rs.15,000/-, Rs.20,000/-, Rs.20,000/-, Rs.20,000/-, Rs.20,000/- and Rs.20,000/-.

9.The appellant contended that at the time of accident, he was working as a Purchasing Manager in R. Varsha Shopping Bazaar and was earning a sum of Rs.8,500/- per month. The Tribunal having accepted the same, granted only a sum of Rs.51,000/- towards loss of income for a period of 6 months, which is meagre. Considering the period of treatment taken by the appellant, he is entitled to loss of income for a period of 12 months. Hence, the amount awarded by the Tribunal towards loss of income is enhanced to Rs.1,02,000/- [Rs.8,500/- x 12 months]. The amounts awarded by the Tribunal under other heads are just and reasonable and hence, the same are hereby confirmed.

10.It is well settled that the Tribunal and the Courts have to award just compensation. Though the claimants have claimed lesser compensation, the Courts have power to grant just compensation more than the amount claimed by the claimants. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of earnings	51,000/-	1,02,000/-	Enhanced
2.	Transportation	5,000/-	15,000/-	Enhanced
3.	Extra nourishment	5,000/-	20,000/-	Enhanced
4.	Damage to clothes	1,000/-	1,000/-	Confirmed
5.	Medical expenses	1,65,000/-	1,65,000/-	Confirmed
6.	Future medical expenses	10,000/-	20,000/-	Enhanced

7.	Loss of expectation of life	10,000/-	10,000/-	Confirmed
8.	Physical discomfort	10,000/-	10,000/-	Confirmed
9.	Loss of amenities and enjoyment of life	10,000/-	20,000/-	Enhanced
10.	Loss of matrimonial life	20,000/-	20,000/-	Confirmed
11.	Attendant charges	5,000/-	20,000/-	Enhanced
12.	Pain and sufferings	10,000/-	20,000/-	Enhanced
13.	Permanent disability	70,000/-	1,40,000/-	Enhanced
	Total	3,72,000/-	5,63,000/-	Enhanced by Rs.1,91,000/-

11. In the result, the appeal is allowed and the amount awarded by the Tribunal at Rs.3,72,000/- is enhanced to Rs.5,63,000/- along with interest and costs. The respondent-Transport Corporation is directed to deposit the enhanced award amount, now determined by this Court, along with interest and costs, within a period of twelve weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P. No. 3023 of 2007. On such deposit, the appellant is permitted to withdraw the enhanced award amount, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. It is made clear that the appellant is not entitled for any interest for the delay period on the amount of Rs.1,91,000/-, enhanced by this Court as per the order of this Court dated 12.08.2013, made in M.P. No. 2 of 2012 in C.M.A. SR. 101368 of 2011. The appellant is directed to pay the court fee, if any, on the enhanced amount of Rs.1,91,000/-. No costs.

Sd/-

Assistant Registrar (CCC)

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Sub Assistant Registrar

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To

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

2.The III Judge,
Court of Small Causes,
(Motor Accident Claims Tribunal),
Chennai.

+1cc to Ms.M.Malar, Advocate SR.23440

C.M.A. No. 2771 of 2013

MP(CO)
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