

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2020

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.2785 of 2013

(Through Video Conferencing)

Poovaraghavan ... Appellant/ Petitioner

Vs.

Metropolitan Transport Corpn. Ltd.,
Rep. by its Managing Director,
Pallavan Salai,
Chennai - 600 002. ... Respondent/ Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 08.06.2011 and made in M.C.O.P.No.2371 of 2008, on the file of the Motor Accidents Claims Tribunal, IV Court of Small Causes, Chennai.

For appellant : Mr.P.D.Selvaraj

For respondent : Mr.M.Suresh Srinivas
for Mr.K.Moorthy.

J U D G E M E N T

The claimant is the appellant. The appellant is aggrieved by the impugned Judgment and Decree dated 08.06.2011 passed by the Motor Accidents Claims Tribunal, Chennai (IV Court of Small Causes, Chennai), in M.C.O.P.No.2371 of 2008.

2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.1,62,700/- as compensation together with interest at 7.5% per annum from the date of filing of the claim petition till the date of deposit, as against the total claim amount of Rs.3,00,000/-.

3. Aggrieved by the above compensation awarded by the Tribunal, in this appeal, the appellant/claimant seeks enhancement of compensation by another sum of Rs.1,37,300/- being the balance amount of Rs.3,00,000/- claimed before the Tribunal in the claim petition.

4. The brief facts of the case are that the appellant met with an accident on 19.06.2008 at about 15.45 hrs. (03.45 p.m.) while driving a van bearing registration No.TN-04-L-2997, when a bus bearing registration No.TN-01-N-2960 belonging to the respondent Metropolitan Transport Corporation Limited turned to the left side of the road by its driver in a rash and negligent manner and hit the van driven by the appellant, as a result of which, the appellant sustained the following injuries:-

- i. Blunt Injury over Abdomen.
- ii. Compartment Syndrome Right Leg.
- iii. Laceration Right Ankle.
- iv. Abrasion over Forehead.
- v. Abrasion over Right Leg.
- vi. Multiple injuries all over the body.

5. Before the Tribunal, the appellant had filed 7 Exhibits including Disability Certificate and examined himself as P.W1 and the Dr.Saravana Bhavanantham as P.W.2.

6. It is submitted by the learned counsel for the appellant that Tribunal erred in awarding a restricted compensation by considering the income of the appellant as Rs.3,300/- even though the appellant had declared that he was earning a sum of Rs.6,000/- per month in the claim petition.

7. I have considered the arguments advanced by the learned counsels for the appellant and the respondent. I have also perused the evidence on record and the impugned Judgment and Decree.

8. It is noticed that even though the appellant claimed that he was earning a sum of Rs.6,000/- in the claim petition, the Tribunal has considered a notional income of the appellant as Rs.3,300/- per month since he had not filed any documents to substantiate the same. In Syed Sadiq Vs. United India Insurance Co.Ltd., (2014) 2 SCC 735, the Hon'ble Supreme Court has considered the notional income of a vegetable as Rs.6,500/- per month. In this case, the appellant has claimed the monthly income of Rs.6,000/- per month. He had restricted to Rs.3,600/- for loss of earning capacity from 19.06.2008 to 07.07.2008 and further a sum of Rs.30,000/- for the partial loss of earning from 08.07.2008 to 07.12.2008. The Tribunal has awarded a sum of Rs.13,200/- (3,200 x 4) for the loss of income for the period of 4 weeks.

9. In my view, the Tribunal committed error by considering the notional income of Rs.3,300/-. Same should have been considered as Rs.6,000/- per month as was claimed by the appellant. Therefore, there shall be an enhancement of compensation on account of loss of income as was claimed by the appellant in the claim petition to Rs.33,600/- (30,000 + 3,600). A sum of Rs.5,000/- awarded towards Extra Nourishment appears to be low and same is enhanced to Rs.10,000/-.

10. The Tribunal has awarded a sum of Rs.70,000/- towards permanent disability by considering the 35% of disability for the purpose of awarding compensation at Rs.2,000/- per percentage. In my view, considering the nature of injuries suffered by the appellant, though no case was made out for permanent disability, the injuries suffered by the appellant still deserves to be properly compensated. Considering the same, I am inclined to enhance the compensation awarded by the Tribunal towards Permanent Disability to Rs.1,00,000/-. Since the appellant would have to remove plate fixed, a sum of Rs.20,000/- is awarded towards expenses for removing plate in future.

11. Therefore, the compensation of Rs.1,62,700/- awarded by the Tribunal is partially enhanced as follows:-

Heads	Compensation awarded by the Tribunal	Re-quantified amount of this Court	Status (Confirmed or Enhanced or Granted or Reduced or Deleted)
Loss of Income	Rs.13,200/-	Rs. 33,600/-	Enhanced
Transport to Hospital	Rs. 5,000/-	Rs. 5,000/-	Confirmed
Extra Nourishment	Rs. 5,000/-	Rs. 10,000/-	Enhanced
Medical Expenses	Rs.34,500/-	Rs. 34,500/-	Confirmed
Attender Charges	Rs. 5,000/-	Rs. 5,000/-	Confirmed
Pain and Sufferings	Rs.30,000/-	Rs. 30,000/-	Confirmed
Permanent Disability	Rs.70,000/-	Rs.1,00,000/-	Enhanced
Expenses for removing plate in future	-	Rs. 20,000/-	Granted
Total	Rs.1,62,700/-	Rs.2,38,100/-	Enhanced by another sum of Rs.75,400/-

Thus, the compensation of Rs.1,62,700/- awarded by the Tribunal is enhanced to Rs.2,38,100/-.

12. At the same time, it is noticed that since this appeal has been filed belatedly, no interest can be granted to the appellant for the period of delay (i.e. 279 days) in terms of the order dated 06.08.2013 of this Court in M.P.No.1 of

2013 in C.M.A.Sr.No.18999 of 2013. The operative portion of the order reads as under:-

2. Being satisfied with the reasons assigned in the affidavit filed in support of the petition, this petition is allowed.

3. However, it is made clear that in the event of enhancement of compensation, the claimants will not be entitled to the interest for the period of delay.

13. Therefore, the respondent is directed to deposit the re-quantified amount of Rs.2,38,100/- together with interest at 7.5% per annum from the date of filing of the claim petition till the date of deposit except the period of 279 days, less any amount already deposited, within a period of eight weeks from the date of receipt of a copy of this Judgment.

14. On such deposit, the appellant/claimant is permitted to withdraw the same together with interest, less any amount already withdrawn, by filing suitable applications before the Tribunal.

15. Accordingly, this Civil Miscellaneous Appeal is partly allowed. No cost.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To:-

The Motor Accident Claims Tribunal,
IV Court of Small Causes, Chennai.

Copy to:

The Section Officer, VR Section, High Court, Madras.

+1cc to Mr.K.Moorthy. , Advocate SR.No. 29493

C.M.A.No.2785 of 2013

A.SK(19.04.2021)