

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.3433 of 2013

S.Selvaraj

...Appellant/Petitioner

vs.

The Managing Director,
Tamil Nadu State Transport Corporation (Kum) Ltd.,
Trichy. ... Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment dated 10.01.2012 made in MACT.OP.No.4181 of 2009, on the file of Motor Accident Claims Tribunal, Additional District Judge (III Fast Track Court) Chennai.

For Appellant : Mr.K.Varadha Kamaraj

For Respondent : Mr.D.Venkatachalam

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 10.01.2012 passed by the Motor Accident Claims Tribunal, Additional District and Sessions Court, Fast Track Court-III, Chennai in MCOP.No.4181 of 2009.

2.Heard Mr.K.Varadha Kamaraj, learned counsel for the Appellant and Mr.D.Venkatachalam, learned counsel for the respondent.

3.The Appellant/claimant sustained injuries on 06.10.2009 as a result of an accident caused by a bus owned by the respondent Transport Corporation. He preferred a claim before the Motor Accident Claims Tribunal in MCOP.No.4181 of 2009 seeking compensation for the injuries sustained by him as a result of the accident.

4.The Tribunal under the impugned Award has directed the respondent Transport Corporation to pay the Appellant/claimant a compensation of Rs.4,69,184/- together with interest and cost.

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

40% disablement	-	Rs. 80,000/-
Medical expenses	-	Rs.3,14,184/-
Pain and suffering	-	Rs. 50,000/-
Nutritious Food	-	Rs. 15,000/-
Transportation	-	Rs. 10,000/-

Total		Rs.4,69,184/-

6.The Appellant/claimant unsatisfied with the quantum of compensation awarded by the Tribunal under the impugned Award has preferred this appeal seeking for enhancement.

7.Before the Tribunal, the Appellant/claimant has filed 19 documents which were marked as Exs.P1 to P19 and three witnesses were examined on his side namely, the Appellant/claimant himself as PW1, an eye witness to the accident as PW2 and the Doctor who examined him as PW3. On the side of the respondent Transport Corporation, no document was filed but one witness was examined as RW1 before the Tribunal.

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

- (a) Crush injury in the left foot
- (b) Injuries over both hands
- (c) Facial Injury
- (d) Head Injury
- (e) Multiple injuries all over his body

9.The Doctor (PW3) has assessed the disability of the Appellant/claimant at 40%. The Tribunal has awarded a disability compensation of Rs.80,000/- to the Appellant/claimant calculated at Rs.2,000/- per percentage of disability for the 40% disability. The accident happened on 06.10.2009. This Court is of the view considered that the Tribunal ought to have awarded higher disability compensation after giving due consideration to the year of the accident. It is settled practice adopted by the Courts that if the accident had happened in the year 2009, the disability compensation is assessed at Rs.3,000/- per percentage of disability. However, the Tribunal has erroneously assessed the disability compensation at Rs.2,000/- per percentage of disability.

Accordingly, this Court enhances the disability compensation awarded to the Appellant/claimant from Rs.80,000/- to Rs.1,20,000/- calculated at Rs.3,000/- per percentage of disability.

10. Insofar as the medical expenses of Rs.314,184/- awarded by the Tribunal is concerned, this Court has verified the medical bills filed by the Appellant/claimant which was marked as Ex.P11 before the Tribunal. The total of the said medical bills works out to only Rs.2,47,598/-. However, the Tribunal has erroneously awarded a sum of Rs.3,14,184/- to the Appellant/claimant towards reimbursement of medical expenses. Accordingly, the compensation towards medical expenses is reduced by this Court from Rs.3,14,184/- to Rs.2,47,598/-. The Tribunal has awarded the Appellant/claimant a compensation of Rs.50,000/- towards pain and suffering and Rs.15,000/- towards extra nourishment charges which in the considered view of this Court is a just compensation and there is no scope for interference. The Tribunal has awarded a meagre compensation of Rs.10,000/- to the Appellant/claimant towards transportation cost. This Court after giving due consideration to the long period of hospitalization of the Appellant/claimant as seen from Exs.P4, P5, P6, P7, P8, P9 and P10, the Tribunal ought to have awarded a higher compensation towards transportation cost. This Court deems it fit to award a sum of Rs.20,000/- as compensation to the Appellant/claimant towards transportation cost.

11. The Tribunal has rightly not awarded any compensation towards loss of income during the period of his treatment since the Appellant/claimant was a Government servant. No evidence has been produced by him before the Tribunal, to show that he suffered loss of income during the period of his treatment. However, the Tribunal ought to have awarded compensation towards loss of amenities, attender charges, future medical expenses after giving due consideration to the nature of the injuries. The Appellant/claimant had sustained crush injury in the left foot, injuries over both hands, facial injury, head injury and multiple injuries all over his body. He has also been hospitalized on three occasions and the total period of his hospitalization was almost 45 days. Since the nature of the injuries sustained by the Appellant are indeed grievous in nature which would have affected his mobility for a long period of time, the Tribunal ought to have awarded compensation under the aforesaid heads. Accordingly, this Court awards a sum of Rs.25,000/- as compensation to the Appellant/claimant towards loss of amenities, Rs.20,000/- towards attender charges and Rs.20,000/- towards future medical expenses.

12.For the foregoing reasons, the compensation awarded by the Tribunal is enhanced from Rs.4,69,184/- to Rs.5,17,598/- by this Court in the following manner:

40% disablement	-	Rs.1,20,000/-
Medical expenses	-	Rs.2,47,598/-
Pain and suffering	-	Rs. 50,000/-
Extra nourishment	-	Rs. 15,000/-
Transportation	-	Rs. 20,000/-
Loss of amenities	-	Rs. 25,000/-
Attender charges	-	Rs. 20,000/-
Future medical expenses	-	Rs. 20,000/-

Total Rs.5,17,598/-

13.In the result, the appeal is partly allowed. The respondent Transport Corporation is directed to deposit the modified award amount of Rs.5,17,598/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realisation, after deducting the amount already deposited if any, to the credit of MCOP.No.4181 of 2009, on the file of the Motor Accident Claims Tribunal, Additional District and Sessions Court, Fast Track Court-III, 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 MCOP.No.4181 of 2009 to the bank account of the appellant/claimant, through RTGS, within a period of two weeks thereafter. The requisite Court fee, if any shall be paid by the appellant before receiving the copy of this Judgment. No costs.

Sd/-
Assistant Registrar(CS VIII)

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Sub Assistant Registrar

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To

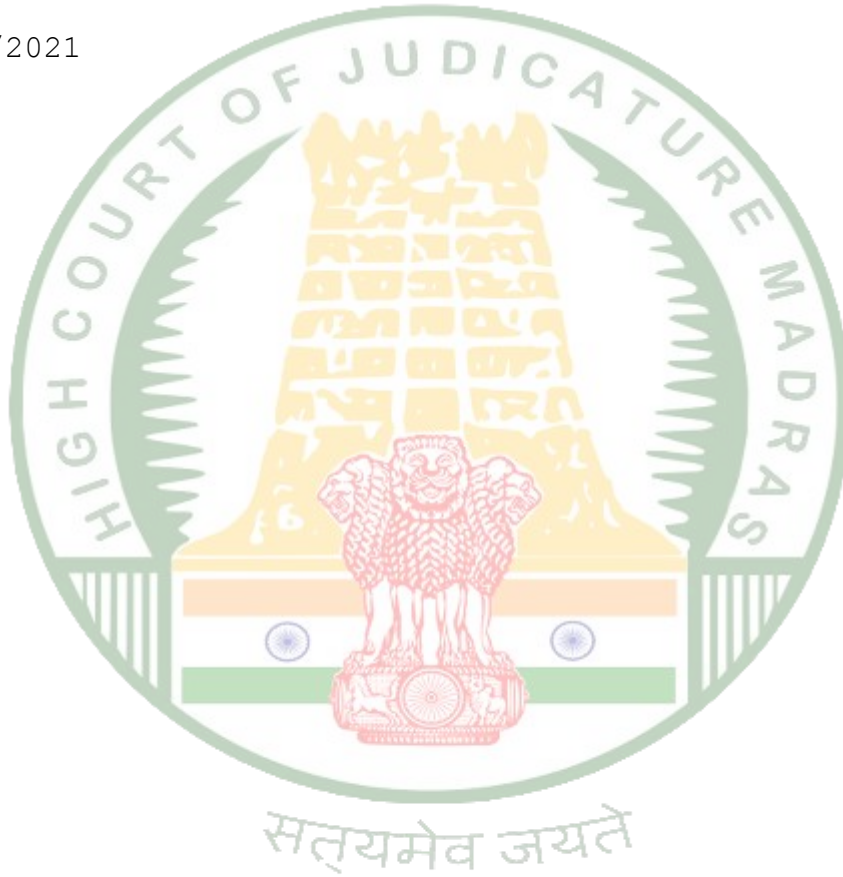
1. The Additional District and Sessions Court,
Motor Accident Claims Tribunal,
Fast Track Court-III,
Chennai.

2.The Section Officer,
Vernacular Section,
Madras High Court.

+1cc to Mr.K.Varadhakamaraj, Advocate Sr.29592

C.M.A.No.3433 of 2013

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srg 12/05/2021



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