

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.3571 of 2013

Matheen Ahamed

...Appellant/Petitioner

vs.

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Anna Salai, Chennai-2. ...Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 07.12.2012 made in M.C.O.P.No.981 of 2011 on the file of Motor Accident Claims Tribunal, II Small Causes Court, Chennai.

For Appellant : Mr.K.Varadha Kamaraj
For Respondent : Mr.S.Sivakumar

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant seeking enhancement of compensation granted by the Tribunal in the award dated 07.12.2012 made in M.C.O.P.No.981 of 2011 on the file of Motor Accident Claims Tribunal, II Small Causes Court, Chennai.

2.The appellant is the claimant in M.C.O.P.No.981 of 2011 on the file of Motor Accident Claims Tribunal, II Small Causes Court, Chennai. He filed the said claim petition claiming a sum of Rs.6,00,000/-as compensation for the injuries sustained by him in the accident that took place on 18.02.2011.

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 bus belonging to the respondent, and directed the respondent to pay a sum of Rs.3,03,257/- 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.

4. Heard Mr.K.Varadha Kamaraj, learned counsel appearing for the appellant and Mr.S.Sivakumar, learned counsel appearing for the respondent.

5.A perusal of the records shows that the claimant took initial treatment at Government General Hospital, Chennai and then as per Ex.P3 discharge summary issued by Nobel Hospital, he took inpatient treatment from 19.02.2011 to 01.03.2011 for a period of ten days. The appellant sustained left foot injury, for which wound debridement and S.S.G. was done on 19.02.2011 and 24.02.2011. So there is a possibility of incurring expenses towards loss of income, Transportation, Extra nourishment, damage to clothes and some expenses towards medicine also. Due to the injuries, the petitioner would have experienced much pain and suffering and he would have suffered some mental stress and loss of income during the treatment period, for which the petitioner is entitled to compensation. Dr.N.Saichandran (PW2) has assessed the partial permanent disability as 35% and the Tribunal has accepted the same and awarded a sum of Rs.70,000/- (Rs.2,000/- per percentage of disability). Considering the nature of injuries and the year of the accident, this Court enhances the same to Rs.3,000/- per percentage of disability, which comes to Rs.1,05,000/-. The award passed by the Tribunal under various other heads are confirmed. The revised enhancement is extracted hereunder:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of income for 6 months	1,03,368/-	1,03,368/-	confirmed
2.	Transportation	10,000/-	10,000/-	confirmed
3.	Extra Nourishment	10,000/-	10,000/-	Confirmed
4.	Damages to Clothes	2,000/-	2,000/-	Confirmed
5.	Medical Expenses	62,889/-	62,889/-	Confirmed
6.	Attender Charges	5,000/-	5,000/-	Confirmed

7.	Mental agony to the petitioner, Loss of amenities of life and Loss of expectation of life	20,000/-	20,000/-	Confirmed
8.	Pain and Sufferings	20,000/-	20,000/-	Confirmed
9.	Disability of 35% at the rate of Rs.2,000/- per percentage	70,000/-	1,05,000/- (at the rate of Rs.3,000/- per percentage)	enhanced
	Total	Rs.3,03,257/-	Rs.3,38,257/-	enhanced by Rs.35,000/-

6. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.3,03,257/- is hereby enhanced to Rs.3,38,257/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation. 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 enhanced award amount along with interest and costs, less the amount already withdrawn, if any. No costs.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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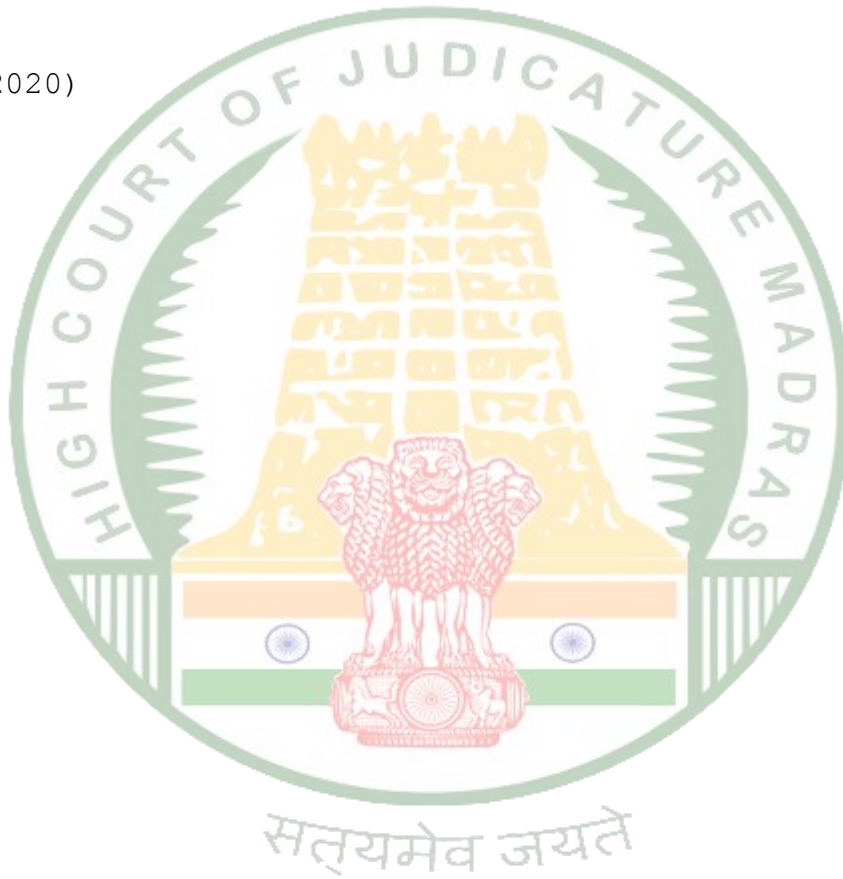
1. The Motor Accident Claims Tribunal
II Small Causes Court,
Chennai.

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

+1 CC to Mr.K.Varadha Kamaraj, Advocate sr 6128.

C.M.A.No.3571 of 2013

PVS (CO)
SP(14/08/2020)



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