

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 16.09.2020

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1383 of 2018

C. Siva

... Appellant/ Petitioner

Vs

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

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 03.07.2017 made in M.A.C.T.O.P.No.1635 of 2013 on the file of the Motor Accidents Claims Tribunal, Chennai (Special Sub Court, Chennai).

For Appellant : Mr. S. Vadivel
For Respondent : Mr. S.S. Swaminathan

J U D G M E N T

This appeal has been preferred by the claimant, against the judgment and decree dated 03.07.2017 made in M.A.C.T.O.P.No.1635 of 2013 on the file of the Motor Accidents Claims Tribunal, Chennai (Special Sub Court, Chennai), awarding a compensation of Rs.2,82,000/- to the appellant, for the injuries sustained by him in a motor vehicle accident.

2.The brief facts are that on 25.10.2012 at about 16:30 hrs, while the appellant herein was travelling as a pillion rider in the motorcycle bearing Registration No.TN-48-X-5578 driven by one R.Somasundaram along the J.J.Nagar Road, Guindy, Chennai, the MTC Bus bearing Registration No.TN-01-N-7983, belonging to the respondent came from the opposite direction in a rash and negligent manner and hit the motorcycle, thereby the appellant sustained grievous injuries. The appellant filed a claim petition before the Tribunal. Considering the materials and evidence on record, the Tribunal has awarded a sum of Rs.2,82,000/- with interest at the rate of 7.5% per annum from the date of petition. Aggrieved by the same, the present appeal has been filed by the appellant/claimant, for enhancement of compensation.

3.The learned counsel for the appellant has submitted that even though the Doctor who examined the claimant, fixed the percentage of disability at 50%, the Tribunal has reduced the same to 45%, which is not correct. It is also submitted that the compensation awarded towards other heads are low and hence the same requires substantial enhancement.

4.Per contra, the learned counsel appearing for the respondent/ Transport Corporation has submitted that the Tribunal, after considering all the materials available on record in proper perspective, has awarded the compensation, which is just, fair and reasonable and hence the same need not be interfered with by this Court.

5.Heard the learned counsel on either side and perused the materials and evidence available on record, carefully.

6.With regard to the amount awarded towards disability, taking note of the deposition of P.W.2-Doctor in his cross examination that he has not given treatment to the claimant, but plate and screw were fixed on the claimant's right thigh by him, since there was a fracture on that bone and the further fact that the Doctor assessed the disability only after the surgery, the Tribunal came to the conclusion that the claimant suffered partial permanent disability and that the percentage of disability will vary from Doctor to Doctor at the rate of 5% and accordingly awarded a sum of Rs.1,35,000/- towards disability to the claimant, at the rate of Rs.3,000/- per percentage of disability, which in the considered opinion of this Court, does not require any interference.

7.The amounts awarded by the Tribunal towards pain and suffering, transportation expenses, extra nourishment, attender charges and loss of earnings are reasonable and hence the same are confirmed.

8.The Tribunal has not awarded any amount towards medical expenses. Considering the nature of injuries suffered by the claimant and also taking note of the fracture sustained in his thigh and the metal implant fixed, this Court deems it fit to award a sum of Rs.25,000/- towards future medical expenses, as the claimant would necessarily incur medical expenses in future in this connection, and further to enhance the amount awarded towards loss of future prospects to Rs.75,000/-. The details of the modified compensation are as under:

HEADS	AMOUNT (Rs.)
Disability	1,35,000/-
Pain and suffering	50,000/-
Transportation expenses	10,000/-
Future Medical expenses	25,000/-
Extra nourishment	15,000/-
Attender charges	10,000/-
Loss of earnings during treatment period	12,000/-
Loss of future prospects	75,000/-
TOTAL.....	3,32,000/- =====

Thus the appellant/claimant is entitled to the modified compensation of Rs.3,32,000/- with interest at the rate of 7.5% per annum from the date of petition. It is made clear that the appellant/claimant is not entitled for interest for the period of delay in re-presenting the appeal, as per the order of this Court dated 12.06.2018 in CMP.No.9865 of 2018 in CMA.SR.No.89044 of 2017. It is also made clear that the appellant has to pay appropriate Court fee in order to receive the awarded amount.

9.The respondent is directed to deposit the modified amount of compensation ordered as above, less the amount if any already deposited, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant/claimant is permitted to withdraw the same on making proper application before the Tribunal.

10.In the result, the appeal is partly allowed. No costs.

Sd/-

Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

AT

To

1.The Motor Accidents Claims Tribunal, Chennai
(Special Sub Court NO.1, Small Causes Court,Chennai).

Copy to:

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

+lcc to Mr.S.Vadivel , Advocate SR.No. 30423

+lcc to Mr.S.S.Swaminathan , Advocate SR.No. 30222

C.M.A.No.1383 of 2018

A.SK(29.12.2020)