

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-09-2020

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A. No.3084 of 2019

C.Chandrasekaran

... Appellant/Claimant

vs.

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan Salai,
Chennai-2.

... Respondent/Respondent

The Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 27.06.2018 passed in M.C.O.P. No.1520 of 2015 on the file of the learned Principal Special Judge, Special Court under EC and NDPS Act, Motor Accidents Claims Tribunal, Chennai.

For Appellant : Mr.C.Richard Suresh Kumar

For Respondent: Mr.Suresh Srinivasan for
Mr.K.Moorthy

J U D G M E N T

The judgment and decree dated 27.06.2018 passed in M.C.O.P. No.1520 of 2015 by the learned Principal Special Judge, Special Court under EC and NDPS Act, Motor Accidents Claims Tribunal, Chennai, is under challenge in the present Civil Miscellaneous Appeal.

2. The claimant, who is the appellant herein, filed the present Civil Miscellaneous Appeal, seeking enhancement of compensation.

3. The accident occurred on 07.01.2015 at about 11.00 hours, at North Gate Salai, Near High Court Entrance, Chennai. The C-2, Elephant Gate, Traffic Investigation registered a case in Crime No.05/C3/2015.

4. The appellant-claimant was standing near the Bus Stop. Due to the accident caused by the MTC bus, the appellant-claimant sustained fractures on both legs as well as multiple injuries all over the body. The appellant-claimant has taken treatment in Rajiv Gandhi Government General Hospital and subsequently, continued his treatment on A.K.N. Hospital at Kellys.

5. The claim petition was filed by the appellant-claimant and the respondent/Metropolitan Transport Corporation defended the claim petition.

6. The Tribunal adjudicated the issues with reference to the documents as well as the evidences produced.

7. As far as the negligence aspect is concerned, the Tribunal safely arrived a conclusion that the accident occurred due to the rash and negligent driving of the driver of the respondent/Metropolitan Transport Corporation bus.

8. Regarding the quantum of compensation for disability, the Doctor assessed the disability at 40%. The appellant-claimant was aged about 77 years old at the time of accident and he took treatment for four days. Under these circumstances, the Tribunal fixed a sum of Rs.3,000/- per percentage for disability and accordingly, granted a sum of Rs.1,20,000/- towards disability compensation.

9. The learned counsel appearing on behalf of the appellant-claimant contended that the compensation granted under the head of loss of earning is also inadequate. The appellant-claimant is working as Security and therefore, more compensation would be granted to the appellant-claimant by the Tribunal for loss of earning capacity.

10. The learned counsel appearing on behalf of the respondent-Transport Corporation disputed the contentions of the learned counsel for the appellant-claimant, by stating that he was working as Security, but no evidence of proof has been produced before the Tribunal to establish his occupation. In the absence of any such proof, the Tribunal is right in granting a sum of Rs.5,000/- towards loss of earning.

11. This Court is of the considered opinion that admittedly the appellant-claimant was aged about 77 years at the time of accident. Undoubtedly, if a person is hale and healthy at that relevant point of time, he worked as Security as engaged by any other Company or by an individual, then the appellant-claimant is bound to submit some proof to that effect. At least a Service

Certificate or a Certificate from the Security Company in which he is working. However, no such proof has been produced by the appellant-claimant before the Tribunal. Therefore, this Court is unable to consider the claim of the appellant-claimant to enhance the compensation under the loss of income head.

12. As far as the disability compensation is concerned, the Doctor assessed the disability at 40%. However, the Tribunal has granted a sum of Rs.3,000/- per percentage. The accident occurred in the year 2015 and therefore, the Tribunal ought to have granted at least a sum of Rs.4,000/- per percentage considering the cost index of the particular year. Thus, this Court is inclined to enhance the disability compensation from Rs.1,20,000/- to Rs.1,60,000/- (i.e., Rs.4,000/-x40). With reference to the other heads, no enhancement is required. Accordingly, a compensation granted by the Tribunal is enhanced to Rs.2,46,800/-. Thus, the appellant/claimant is entitled for a total compensation of Rs.2,46,800/- with accrued interest at the rate of 7.5% per annum.

13. The respondent/Transport Corporation is directed to deposit the entire award amount along with accrued interest, within a period of twelve weeks from the date of receipt of a copy of this judgment and on such deposit being made, the appellant/claimant is permitted to withdraw the entire award amount by filing an appropriate application before the Tribunal and payments are to be made through RTGS.

14. Accordingly, the judgment and decree dated 27.06.2018 passed in M.C.O.P. No.1520 of 2015 by the learned Principal Special Judge, Special Court under EC and NDPS Act, Motor Accidents Claims Tribunal, Chennai, stands modified and consequently, CMA No.3084 of 2019 is allowed in part. However, there shall be no order as to costs.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

Svn
To

The Principal Special Judge,
Special Court under EC and NDPS Act,
Motor Accidents Claims Tribunal,
Chennai-104.

Copy to

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

+lcc to Mr.K.Moorthy, Advocate Sr.30210

CMA No.3084 of 2019

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