

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1023 of 2014

P.Gunapal

.. Appellant /petitioner

Vs.

Tamil Nadu State Government
Transport Corporation
Represented by its Managing Director
Tiruvannamalai.

... Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 21.08.2012 made in M.C.O.P.No.60 of 2009 on the file of Motor Accident Claims Tribunal, Arni.

For Appellant : Mr.M.Ujjval

For Respondent : Mr.K.J.Sivakumar

J U D G M E N T

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 21.08.2012 made in M.C.O.P.No.60 of 2009 on the file of Motor Accident Claims Tribunal, Arni.

2.The appellant is claimant in M.C.O.P.No.60 of 2009 on the file of Motor Accident Claims Tribunal, Arni. He filed the said claim petition claiming a sum of Rs.2,00,000/- as compensation for the injuries sustained by him in the accident that took place on 11.01.2009.

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/Transport Corporation to pay a sum of Rs.63,644/- as compensation to the appellant.

4. Not being satisfied with the amounts awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

5. The learned counsel appearing for the appellant contended that the appellant suffered fracture of 5th and 6th bones of left chest. P.W.2/Doctor has assessed the disability of the appellant as 30%. The Tribunal erred in reducing the disability to 1/3rd. The appellant was earning a sum of Rs.6,000/- per month by doing coolie work. The Tribunal without considering the same, fixed only a meagre sum of Rs.3,000/- as monthly income of the appellant and awarded only a sum of Rs.46,800/- as compensation towards loss of future earning by adopting multiplier method. The amounts awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

6. Per contra, the learned counsel appearing for the respondent/Transport Corporation contended that the appellant has not produced any document to prove that he was earning a sum of Rs.6,000/- per month by doing coolie work. In the absence of any material evidence to prove the avocation and income of the appellant, the Tribunal rightly fixed a sum of Rs.3,000/- as monthly income of the appellant. The Tribunal after considering all the materials available on record, awarded compensation, which is not meagre. The appellant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

7. Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the respondent/Transport Corporation and perused all the materials available on record.

8. It is the contention of the appellant that he suffered fracture of 5th and 6th bones of left chest. The appellant examined the doctor as P.W.2, who has assessed the disability of the appellant as 30% and marked the disability certificate as Ex.P5 to prove the injuries. The Tribunal reduced the disability to 1/3rd on the ground that the disability assessed by P.W.2/Doctor was not for whole body of the appellant, which is proper. The appellant was aged 50 years at the time of accident and the multiplier applicable is '13'. The appellant claimed that he was earning a sum of Rs.6,000/- per month by doing coolie work. The appellant failed to prove the said contention. In the absence of any material evidence to prove the avocation and income of the appellant, the Tribunal fixed a sum of Rs.3,000/- as monthly income of the appellant. The accident is of the year 2009 and the monthly income fixed by the Tribunal is meagre. Hence, a sum of Rs.5,000/- is fixed as monthly income of the appellant. Thus, the compensation awarded by the Tribunal towards loss of future earning is modified to Rs.78,000/- (Rs.5,000/- X 12 X 13 X 10/100).

8(i).According to the appellant, he has taken treatment as in-patient in Government VMC hospital, Vellore and subsequently, in CMC hospital, Vellore and has also taken treatment in private hospital. But the appellant has not produced any discharge summary to prove the same. The Tribunal has not awarded any compensation towards attendant charges, extra nourishment and loss of amenities. Considering Ex.P2/Accident Register copy and nature of injuries sustained by the appellant, a sum of Rs.10,000/- each is awarded towards attendant charges, extra nourishment and loss of amenities. A sum of Rs.2,000/- awarded by the Tribunal towards transportation is meagre and hence, the same is hereby enhanced to Rs.5,000/-. The amounts awarded by the Tribunal under all other heads are just and reasonable and hence, the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1.	Loss of future earning	46,800	78,000	Enhanced
2.	Pain and suffering	10,000	10,000	Confirmed
3.	Transportation	2,000	5,000	Enhanced
4.	Damage to clothes	1,000	1,000	Confirmed
5.	Medical expenses	3,844	3,844	Confirmed
6.	Attendant charges	-	10,000	Granted
7.	Extra nourishment	-	10,000	Granted
8.	Loss of amenities	-	10,000	Granted
	Total	63,644	1,27,844	Enhanced by Rs.64,200/-

9.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.63,644/- is hereby enhanced to Rs.1,27,844/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant is directed to pay necessary Court fee, if any, on the enhanced compensation. The respondent/Transport Corporation 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 twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant is permitted to withdraw the enhanced award amount along with interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-
Asst.Registrar (CS VI)

/true copy/
Sub Asst. Registrar

kj

To
1.The Motor Accident Claims Tribunal
Arni.

Copy to:

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

+1 cc to Mr.P.Satheesh Kumar Advocate sr23073

+1 cc to Mr.K.J.Sivakumar Advocate sr22894

C.M.A.No.1023 of 2014

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