

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2020

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.1949 of 2014

K.Duraisamy

... Appellant/Petitioner

vs.

The Managing Director,
Tamil Nadu Transport Corporation,
(Villupuram Division-1) Ltd.,
Villupuram.

...Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 25.02.2014 made in MCOP.No.1949 of 2010, on the file of the Motor Accident Claims Tribunal (II Small Causes Court), Chennai.

For Appellant : Mr.K.Varadha Kamaraj

For Respondent : Mr.C.S.K.Sathish

JUDGMENT

(This Appeal has been taken up for hearing through Video conferencing)

This appeal has been filed by the claimant seeking enhancement of compensation under the impugned Award dated 25.02.2014 passed by the Motor Accident Claims Tribunal (II Court of Small Causes), Chennai in MCOP.No.1949 of 2010.

2.The Appellant sustained injuries on 12.09.2009 as a result of an accident caused by the buses bearing registration Nos.TN 32 N 3202 and TN 32 N 2489 owned by the respondent/transport corporation.

3. The Appellant/claimant has preferred a claim before the Motor Accident Claims Tribunal, II Court of Small Causes, Chennai in MCOP.No.1949 of 2010 against the respondent/transport corporation seeking a compensation of Rs.1,50,000/- for the injuries sustained by him as a result of the accident.

4. The Motor Accident Claims Tribunal, under the impugned award, directed the respondent/transport corporation to pay the appellant a compensation of Rs.93,000/- together with interest and costs at the rate of 7.5% per annum from the date of claim till the date of realisation for the injuries sustained by him

as a result of the accident caused by the aforesaid buses.

5. The break-up details of the compensation awarded by the Claims Tribunal in favour of the appellant/claimant are as follows:

Sl.No.	Heads	Award passed by the Tribunal (Rs.)
1	Loss of income (one month)	3,000/-
2	Transportation	7,500/-
3	Extra nourishment	7,500/-
4	Pain and suffering	25,000/-
5	Disability of 25% @ Rs.2,000/- per disability	50,000/-
	Total	93,000/-

6. The appellant/claimant, unsatisfied with the quantum of compensation awarded by the Tribunal under the impugned award dated 25.02.2014 passed in MCOP.No.1949 of 2010, has filed this Appeal seeking enhancement of compensation.

7. Heard Mr.K.Varadha Kamaraj, learned counsel for the Appellant/claimant and Mr.C.S.K.Sathish, learned counsel appearing for the respondent/Transport Corporation.

8. Before the Tribunal, the Appellant/claimant has filed seven documents which were marked as Ex.P1 to Ex.P7 and two witnesses were examined on his side viz., Mr.K.Duraisamy, the Appellant/claimant himself as PW1 and Dr.T.S.Kalkura, Doctor, who examined him as PW2. On the side of the respondent/transport corporation, one witness was examined viz., Mr.M.Ayyasamy, Conductor of the Bus (RW1) and no document was filed.

9. The appellant/claimant has sustained the following injuries as a result of the accident:

- 'a. Mandible Fracture
- b. Three teeth on the upper side broken
- c. one tooth on the lower side broken and few more tooth shaking,
- d. lacerations and abrasions all over the body.'

10. The Doctor (PW2), who examined the appellant/claimant, has assessed his partial permanent disability at 35%. However, the Tribunal has assessed the disability at 25% and has awarded a disability compensation of Rs.50,000/- calculated at Rs.2,000/- per percentage of disability. This Court has perused and examined the disability certificate (Ex.P6) and also

examined the findings of the Tribunal with regard to the disability suffered by the appellant/claimant. This Court is satisfied with the reasons given by the Tribunal for reducing the disability to 25% even though the Doctor had assessed the same at 35%. However, this Court is of the considered view that since the year of the accident is end of 2009, the disability compensation awarded by the Tribunal is on the lower side and it has to be enhanced to Rs.75,000/- calculated at Rs.3,000/- per percentage of disability to the appellant/claimant instead of Rs.2,000/- per percentage of disability awarded by the Tribunal.

11. The Tribunal has also failed to award any compensation towards loss of amenities, which the appellant/claimant is legally entitled to as the appellant/claimant has sustained mandible fracture and other injuries. Accordingly, after giving due consideration for the period of his hospitalization and the injuries sustained by him, this Court awards a sum of Rs.5,000/- as compensation to the appellant/claimant towards loss of amenities.

12. Insofar as, the compensation under various other heads, viz., loss of income, transportation, pain and suffering and extra nourishment are concerned, the same is a just compensation and therefore, they do not call for any interference by this Court.

13. For the foregoing reasons, the impugned award is modified in the following manner:

Heads	Amount awarded by the Tribunal (Rs.)	Modified Award Amount (Rs.)
Loss of income	3,000/-	3,000/-
Transportation	7,500/-	7,500/-
Extra nourishment	7,500/-	7,500/-
Pain and suffering	25,000/-	25,000/-
Disability of 25% @ Rs.2,000/- per disability	50,000/-	75,000/-
Loss of amenities		5,000/-
Total	93,000/-	1,23,000/-

Conclusion:

14. In the result, the Appeal is partly allowed by enhancing the award amount from Rs.93,000/- to Rs.1,23,000/-. However, the rate of interest fixed by the Tribunal is confirmed. The respondent/Transport Corporation is directed to deposit the entire award amount of Rs.1,23,000/- together with interest from the date of claim till the date of realisation

and costs, after deducting the amount, if any, already deposited, to the credit of MCOP.No.1949 of 2014 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 to the Appellant/Claimant through RTGS within a period of four weeks, thereafter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar

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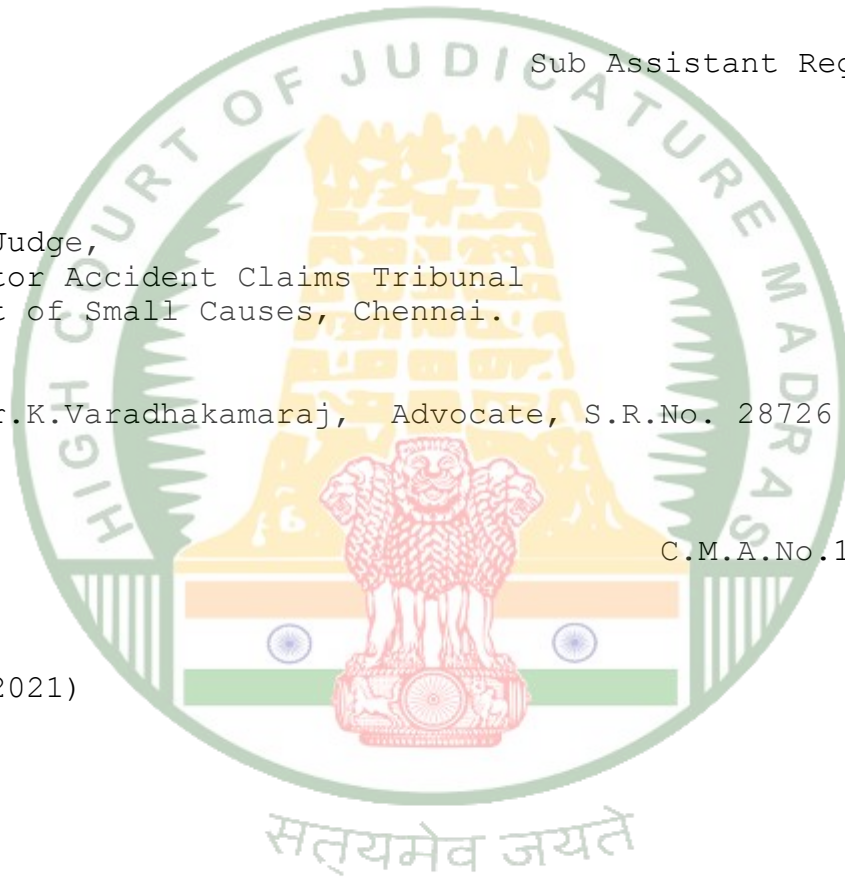
To

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

+1cc to Mr.K.Varadhakamaraj, Advocate, S.R.No. 28726

C.M.A.No.1949 of 2014

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GN(22/04/2021)



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