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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2027 of 2014

F.Gnana Dison

.. Appellant/Claimant

Vs.

The Managing Director,  
Tamil Nadu State Transport Corporation,  
Kancheepuram.

.. Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 19.11.2013 made in M.C.O.P.No.1987 of 2011 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai.

For Appellant : Mr.K.Suryanarayanan  
for Mr.M.Swamikkannu

For Respondent : Mr.K.J.Sivakumar

#### J U D G M E N T

The matter is heard through "Video Conferencing".

2.This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 19.11.2013 made in M.C.O.P.No.1987 of 2011 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai.

3.The appellant is the claimant in M.C.O.P.No.1987 of 2011 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai. He filed the above said claim petition, claiming a sum of Rs.16,00,000/- as compensation for the injuries sustained by him in the accident that took place on 14.02.2011.

4.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-Transport Corporation and directed the respondent to pay a sum of Rs.2,41,800/- as compensation to the appellant.



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

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6. Though the appellant has raised various grounds with regard to enhancement of compensation in the grounds of appeal, at the time of arguments, the learned counsel appearing for the appellant restricted his arguments only with regard to monthly income fixed by the Tribunal at Rs.4,500/- of the appellant is meagre and prayed for fixing the income of the appellant more than Rs.4,500/- per month and enhancement of compensation.

7. Per contra, the learned counsel appearing for the respondent-Transport Corporation contended that the Tribunal has fixed the monthly income of the appellant at Rs.4,500/- as claimed by him, which is not meagre and the Tribunal has awarded a sum of Rs.2,41,800/- as compensation to the appellant for the simple injuries sustained by him, which is excessive. The appellant has not made out any case for enhancement and prayed for dismissal of the appeal.

8. Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the respondent-Transport Corporation and perused the entire materials on record.

9. From the materials available on record, it is seen that it is the contention of the appellant that he was aged 20 years, working as Gas Cylinder & Stove Mechanic and was earning a sum of Rs.4,500/- per month at the time of accident. The appellant failed to prove the said contention. In the absence of any material evidence with regard to avocation and income, the Tribunal considering the age, year of accident and nature of work done by the appellant, fixed a sum of Rs.4,500/- as monthly income of the appellant as claimed by him in the claim petition and awarded a sum of Rs.27,000/- towards loss of income for six months. In the appeal, the learned counsel appearing for the appellant contended that the monthly income fixed by the Tribunal is meagre and prayed for enhancement. It is seen in the claim petition itself, the appellant has claimed that he was working as Gas Cylinder & Stove Mechanic at Sri Sakthi Gas Service Centre, West Tambaram, Chennai and was earning a sum of Rs.4,500/- per month. The appellant has not proved the same by filing documents. Tribunal in the absence of materials, fixed a sum of Rs.4,500/- per month as income of the appellant as claimed by him. In view of the same, the monthly income fixed by the Tribunal as claimed by the appellant is not meagre. The Tribunal considering all the materials in proper perspective, awarded a sum of Rs.2,41,800/- as compensation to the appellant for the injuries and disability sustained by him in the accident, which is not meagre. Hence, the



appellant is not entitled to any enhancement.

10. In the result, this Civil Miscellaneous Appeal is dismissed and the compensation awarded by the Tribunal at Rs.2,41,800/- is hereby confirmed together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The respondent-Transport Corporation is directed to deposit the award amount 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, to the credit of M.C.O.P.No.1987 of 2011 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai. On such deposit, the appellant is permitted to withdraw the award amount, along with interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. No costs.

Sd/-  
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To

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

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

+1cc to Mr.M.Swamikkannu, Advocate, S.R.No.42464

C.M.A.No.2027 of 2014

CP(CO)  
CB(26/08/2021)