



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2281 of 2014

Minor. Raja @ Rajamanickam,
Represented by his mother, Devi.

.. Appellant

Vs.

The Managing Director,
Metropolitan Transport Corporation Chennai Limited,
Pallavan Salai, Chennai - 600 002.

.. Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 19.02.2013 made in M.C.O.P.No.3924 of 2010 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai.

For Appellant : Mr.K.Varadha Kamaraj

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

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 19.02.2013 made in M.C.O.P.No.3924 of 2010 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.3924 of 2010 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai. The mother of the appellant filed the above said claim petition under Section 163(A) of the Motor Vehicles Act, claiming a sum of Rs.6,00,000/- as compensation for the injuries sustained by him in the accident that took place on 20.06.2010.

4.The Tribunal considering the pleadings, oral and documentary evidence, held that the appellant sustained injuries in the accident that occurred on 20.06.2010 involving the



respondent-Transport Corporation bus and directed the respondent-Transport Corporation to pay a sum of Rs.2,05,000/-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.

6. The learned counsel appearing for the appellant contended that the appellant was aged 15 years at the time of accident and he suffered fracture of right femur, degloving injury, crush injury right femur due to run over, loss of flesh and skin right lower limb and multiple abrasion over the body. He has taken treatment as inpatient at Government Stanley Hospital from 03.08.2010 to 26.09.2010 and from 25.10.2010 to 16.12.2010. To prove the nature of injuries and disability, the appellant examined his mother as P.W.1, examined himself as P.W.2, examined T.T.Manicka Vadivel, Medical Record Technician as P.W.3 and Dr.Saichandran as P.W.4. P.W.4/Doctor examined the appellant and certified that appellant suffered 65% disability. The respondent has not disputed the disability suffered by the appellant. The Tribunal erroneously reduced the percentage of disability assessed by P.W.4/Doctor to 25% and awarded meagre amount as compensation. The appellant was working as Helper to Mason and was earning a sum of Rs.3,250/- per month at the time of accident. The Tribunal erroneously fixed only a meagre sum of Rs.3,000/- per month as notional income of the appellant. The amounts awarded by the Tribunal towards pain and sufferings, extra nourishment, transportation and loss of earning capacity are meagre and prayed for enhancement of compensation.

7. Per contra, the learned counsel appearing for the respondent-Transport Corporation contended that the appellant filed the claim petition under Section 163(A) of the Motor Vehicles Act. The Tribunal without following the formula in the II Schedule, has awarded excessive compensation under different heads. In view of the same, the appellant is not entitled for any enhancement and prayed for dismissal of the appeal.

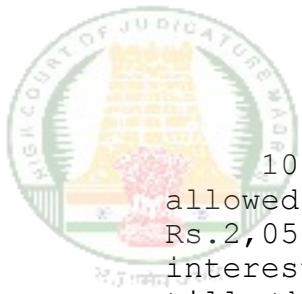
8. Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the respondent-Transport Corporation and perused the entire materials on record.

9. From the materials available on record, it is seen that the appellant has filed the claim petition under Section 163(A) of the Motor Vehicles Act. The Tribunal considering the evidence let in by the parties, held that appellant is entitled to compensation and directed the respondent-Transport Corporation to pay the compensation. The appellant examined P.W.4/Doctor who



deposed about the nature of injuries suffered by him. P.W.4/Doctor assessed the disability suffered by the appellant and certified that appellant suffered 65% disability. The respondent has not let in any contra evidence to the evidence of P.W.4/Doctor. The Tribunal reduced the percentage of disability from 65% to 25% in the absence of any contra evidence. In view of the same, the appellant is entitled to compensation for 65% disability as assessed by P.W.4/Doctor. The appellant has filed the claim petition under Section 163(A) of the Motor Vehicles Act. Considering the date of accident, age and nature of work done by the appellant, a sum of Rs.3,250/- is fixed as monthly income of the appellant as claimed by him. The Tribunal has rightly adopted multiplier '15' as per II Schedule. Thus, the compensation awarded by the Tribunal towards loss of earning capacity is modified to Rs.3,80,250/- (Rs.3,250/- X 12 X 15 X 65/100). The claim petition is filed under Section 163(A) of the Motor Vehicles Act and the appellant is entitled to compensation at Rs.5,000/- for grievous injuries and entitled to only Rs.15,000/- towards medical expenses if he produced documents to prove the medical expenses incurred by him. In the present case, the appellant has not filed any document. Hence, the Tribunal has not awarded any amount towards medical expenses, which is proper. Apart from the amount awarded towards loss of earning capacity, the appellant is entitled to only a sum of Rs.5,000/- towards pain and sufferings. Thus, the compensation awarded by the Tribunal towards pain and sufferings is hereby reduced to Rs.5,000/-. Therefore, the amounts awarded by the Tribunal towards transportation, extra nourishment and loss of amenities are liable to be set aside and it is hereby set aside. 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
1.	Loss of earning capacity	1,35,000/-	3,80,250/-	Enhanced
2.	Pain and sufferings	50,000/-	5,000/-	Reduced
3.	Extra nourishment	7,000/-	-	Set aside
4.	Transportation	3,000/-	-	Set aside
5.	Loss of amenities	10,000/-	-	Set aside
	Total	Rs.2,05,000/-	Rs.3,85,250/-	Enhanced by Rs.1,80,250/-



10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,05,000/- is hereby enhanced to Rs.3,85,250/- 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 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, to the credit of M.C.O.P.No.3924 of 2010 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai. On such deposit, the Tribunal is directed to deposit the award amount in any one of the Nationalized Banks, till the minor appellant attains majority. On such deposit made by the Tribunal, the mother of the minor appellant viz., Devi is permitted to withdraw the accrued interest once in three months for the welfare of the minor appellant, by filing necessary applications before the Tribunal. No costs.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

krk

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.B.S.Padmanabhan, Advocate, S.R.No.41822
+1cc to Mr.K.Moorthy, Advocate, S.R.No.42373

C.M.A.No.2281 of 2014

GMR(CO)
GN(27/08/2021)