

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2972 of 2014

G.Elangovan

.. Appellant/ Petitioner

Vs.

Tamil Nadu State Government Transport Corporation,
rep. by its Managing Director,
VPM Branch, No.11, Rangapuram,
Vellore.

.. Respondent/ Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 19.10.2012 made in M.C.O.P.No.291 of 2008 on the file of Motor Accident Claims Tribunal, Arni.

For Appellant : Mr.M.Ujjuval for
Mr.P.Satheesh Kumar

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 19.10.2012 made in M.C.O.P.No.291 of 2008 on the file of Motor Accident Claims Tribunal, Arni.

2.The appellant is claimant in M.C.O.P.No.291 of 2008 on the file of Motor Accident Claims Tribunal, Arni. He filed the said claim petition claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by him in the accident that took place on 20.08.2008.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by the driver of the bus belonging to the respondent/Transport Corporation and directed the respondent/Transport Corporation to pay a sum of Rs.91,150/- as compensation to the appellant.

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

5.The learned counsel appearing for the appellant contended that the appellant was aged 35 years at the time of accident and was earning a sum of Rs.9,000/- per month by doing agricultural work. The Tribunal without considering the same, fixed only a meagre sum of Rs.3,000/- as monthly income of the appellant. The appellant has suffered injury on both legs, both hands, fracture of skull bone, right eyebrow bone and multiple injuries all over the body. The appellant proved the same by examining P.W.2/Doctor, who has assessed the disability of the appellant as 35% and marked the disability certificate as Ex.P3. The Tribunal has awarded only a meagre amount as compensation towards loss of earning capacity reducing the disability to 12% for whole body. 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 Tribunal considering the nature of injuries and disability assessed by the Doctor has adopted multiplier method while awarding compensation towards loss of earning power which is not meagre. The total compensation awarded by the Tribunal is excessive. 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 injury on both legs, both hands, fracture of skull bone, right eyebrow bone and multiple injuries all over the body. P.W.2/Doctor has assessed the disability of the appellant as 35% and the disability certificate was marked as Ex.P3. The Tribunal reduced the disability to 12% holding that P.W.2/Doctor has not assessed the disability of the appellant for the whole body. The reason given by the Tribunal for reducing the disability is valid. The appellant was aged 35 years at the time of accident

and the multiplier applicable is '16'. According to the appellant, he was doing agricultural work and was earning a sum of Rs.9,000/- per month. The appellant has not filed any document to substantiate the said contention. In the absence of any material evidence, the Tribunal fixed a sum of Rs.3,000/- as monthly income of the appellant. The amounts awarded by the Tribunal for loss of earning power is meagre. The accident is of the year 2008 and the monthly income fixed by the Tribunal is meagre. Hence, a sum of Rs.4,500/- is fixed as monthly income of the appellant. Thus, the compensation awarded by the Tribunal towards loss of earning power is modified to Rs.1,03,680/- (Rs.4,500/- x 12 x 16 x 12/100). The amounts awarded by the Tribunal under all the 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 earning power	66,240	1,03,680	Enhanced
2.	Pain and sufferings	10,000	10,000	Confirmed
3.	Transport expenses	2,000	2,000	Confirmed
4.	Damages to clothes	1,000	1,000	Confirmed
5.	Medical expenses	11,910	11,910	Confirmed
	Total	Rs.91,150/-	Rs.1,28,590/-	Enhanced by Rs.37,440/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.91,150/- is hereby enhanced to Rs.1,28,590/- 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. It is made clear that the appellant is not entitled to any interest for the delay period on the amount of Rs.37,440/- enhanced by this Court as per the order of this Court dated 25.09.2014 in M.P.No.1 of 2014 in C.M.A.Sr.No.32650 of 2013. 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/-
Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

mtl

To

1. The Motor Accident Claims Tribunal
Arni.

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

+1cc to Mr.P.Sathesh Kumar , Advocate SR.No. 23578

+1cc to Mr.K.J.Siva kumar , Advocate SR.No. 23865

C.M.A.No.2972 of 2014

A.Sk(22.12.2020)



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