

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 31.07.2020
CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.3197 of 2014

Ravi ... Appellant/ Petitioner

..Vs..

The Managing Director,
Tamilnadu State Transport Corporation,
(Salem Division (ltd).,
No.12, Ramakrishna Road,
Regional Office at Dharmapuri,
Dharmapuri-636705 ...Respondent/ Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 10.04.2013 made in MCOP.No.55 of 2011 on the file of the Motor Accident Claims Tribunal (II Smal Causes Court), Chennai.

For Appellant : Mr.K.Varadhakamaraj
For Respondent : Mr.D.Venkatachalam

J U D G M E N T

[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 10.04.2013 passed by the Motor Accident Claims Tribunal, II Court of Small Causes, Chennai in MCOP.No.55 of 2011.

2. The Appellant being unsatisfied with the quantum of compensation awarded by the Tribunal under the impugned award has filed this appeal seeking for enhancement.

3. The finding regarding the negligence of the driver of the bus owned by the respondent Transport Corporation has now attained finality, since no appeal has been filed by the respondent Transport Corporation.

4. Heard Mr.K.Varadhakamaraj, learned counsel for the Appellant and Mr.D.Venkatachalam, learned counsel for the

respondent.

5. The questions that need to be decided by this Court are whether the compensation awarded by the Tribunal to the Appellant/claimant is a just compensation or not and whether the Appellant/claimant is entitled for any enhancement of compensation.

6. The Tribunal under the impugned Award has directed the respondent Transport Corporation to pay the Appellant/claimant a sum of Rs.1,38,500/- together with interest and costs as detailed hereunder:

Heads	Award Amount (Rs.)
Loss of Income for 3 months	13,500/-
Transportation	5,000/-
Extra Nourishment	5,000/-
Medical Expenses	5,000/-
Pain and suffering	10,000/-
Disability of 50% at the rate of Rs.2000/- per disability	1,00,000/-
Total	1,38,500/-

7. The Appellant/claimant was aged 32 years at the time of the accident and he sustained closed clavicle fracture, scapula body fracture, 2nd PPX fracture, bifrontal and Bitemporal acute subdural hematoma, left temporo-parietal contusion, right squamous temporable fracture as a result of the accident caused by a bus owned by the respondent Transport Corporation. The accident happened on 13.01.2010 and due to the injuries sustained by him, the Appellant/claimant was hospitalised.

8. Before the Tribunal, seven documents were filed by the Appellant/claimant which were marked as Ex.P1 to Ex.P7 and two witnesses were examined on his side namely the claimant himself as PW1 and Dr.M.Saravana Bavanantham, the doctor who examined him as PW2. On the side of the respondent Transport Corporation, neither any document was filed nor any witness examined.

9. The Tribunal fixed the disability of the Appellant/claimant at 50%, even though the doctor of the Appellant/claimant who examined him as PW2 assessed the disability of the Appellant/claimant at 60% partial and permanent disability. This Court accepts the finding of the Tribunal with regard to the percentage of disability assessed by

the Tribunal at 50%. The Tribunal under the impugned award has awarded a sum of Rs.1,00,000/- as compensation towards disability of the Appellant/claimant calculated at Rs.2,000/- per percentage of disability. Since the year of the accident is 2010, the compensation assessed by the Tribunal at Rs.2,000/- per percentage of disability is too low in the considered view of this Court. This Court after considering the nature of injuries sustained by the Appellant/claimant as well as the year of the accident, awards the disability compensation of Rs.1,50,000/- calculated at Rs.3,000/- per percentage of disability towards disability compensation instead of Rs.1,00,000/- calculated at Rs.2,000/- per percentage of disability fixed by the Tribunal.

10. The Tribunal has awarded a sum of Rs.5,000/- each as compensation towards Transportation and Extra nourishment costs which in the considered view of this Court is low. Accordingly, the same is enhanced to Rs.10,000/- each by this Court.

11. In respect of other heads of compensation awarded by the Tribunal towards loss of income for three months, pain and suffering and medical expenses, the same is confirmed by this Court, since it is a just compensation.

12. However, the Tribunal has failed to award any compensation towards loss of amenities and attender charges. The Appellant/claimant having suffered fractures and due to the fact that he was hospitalised for a quite long period of time as seen from the discharge summaries which were marked as Ex.P3, Ex.P4 & Ex.P5, the compensation towards loss of amenities and attender charges should have been awarded by the Tribunal. After giving due consideration to the period of hospitalisation and the nature of injuries, this Court awards a sum of Rs.10,000/- as compensation towards loss of amenities and another sum of Rs.7,500/- towards attender charges to the claimant.

13. For the foregoing reasons, the compensation awarded by the Tribunal under the impugned award is enhanced from Rs.1,38,500/- to Rs.2,16,000/- in the following manner:

Heads	Amount awarded by the Tribunal (Rs.)	Modified Award Amount (Rs.)
Loss of income for 3 months	13,500/-	13,500/-
Transportation	5,000/-	10,000/-
Extra Nourishment	5,000/-	10,000/-

Heads	Amount awarded by the Tribunal (Rs.)	Modified Award Amount (Rs.)
Medical Expenses	5,000/-	5,000/-
Pain and Suffering	10,000/-	10,000/-
Disability of 50%	1,00,000/-	1,50,000/-
Loss of Amenities	Nil	10,000/-
Attender Charges	Nil	7,500/-
Total	1,38,500/-	2,16,000/-

Conclusion:

14. In the result, this appeal is partly allowed by enhancing the compensation awarded by the Tribunal from Rs.1,38,500/- to Rs.2,16,000/-. The respondent Transport Corporation is directed to deposit the modified award amount, after deducting the amount already deposited if any, together with interest at the rate of 7.5% per annum from the date of claim till the date of deposit and costs to the credit of MCOP.No.55 of 2011 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Appellant/claimant is permitted to withdraw the award amount along with accrued interest lying to the credit of MCOP.No.55 of 2011 by filing an appropriate application. No costs.

Sd/-

Assistant Registrar(insp cell)

//True Copy//

Sub Assistant Registrar

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To

1. The II Judge,
Court of Small Causes, Chennai.

2.The Section Officer
V.R.Section, High Court of Madras.

C.M.A.No.3197 of 2014

A.SK(05.01.2021)