

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-09-2020

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A. No.3509 of 2019

G.Annamalai

.. Appellant/Petitioner

vs.

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan Salai,
Chennnai-600 002.

.. Respondent /Respondent

The Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 12.10.2018 passed in M.C.O.P. No.352 of 2017 on the file of the learned IV Judge, Small Causes Court-cum-Motor Accidents Claims Tribunal, Chennai.

For Appellant : Ms.Revathy for Mr.R.Nalliyappan

For Respondent : Dr.S.S.Swaminathan

J U D G M E N T

The judgment and decree dated 12.10.2018 passed in M.C.O.P. No.352 of 2017 by the learned IV Judge, Small Causes Court-cum-Motor Accidents Claims Tribunal, Chennai, is under challenge in the present Civil Miscellaneous Appeal.

2. The claimant, who is the appellant herein, filed the present Civil Miscellaneous Appeal, seeking enhancement of compensation.

3. The learned counsel appearing on behalf of the appellant-claimant contended that the Doctor assessed the disability at 45% and the Tribunal has taken only 25% and awarded a sum of Rs.3,000/- per percentage. Thus, the disability compensation granted by the Tribunal is on the lower side. This apart, the appellant-claimant sustained grievous injuries and had taken treatment for few months. Thus, the overall compensation granted by the Tribunal is less and therefore, the Civil Miscellaneous Appeal is filed by the appellant-claimant seeking enhancement of compensation.

4. The Tribunal awarded a compensation of Rs.2,38,600/-.

5. The learned counsel appearing on behalf of the respondent-Metropolitan Transport Corporation disputed the contentions of the learned counsel appearing on behalf of the appellant-claimant, by stating that the compensation granted by the Tribunal is reasonable. The Tribunal considered the nature of injuries sustained by the appellant-claimant and awarded a reasonable compensation and therefore, the Civil Miscellaneous Appeal is to be dismissed.

6. The accident occurred on 14.12.2016 at about 06.15 hours, while the appellant-claimant was walking at Mount Poonamallee Road near DLF Company, from East to West direction, the MTC bus bearing Registration No.TN-01-N-4819, which came behind the appellant-claimant in a rash and negligent manner and dashed against the appellant-claimant and he sustained grievous injuries.

7. The claim petition was filed by the appellant-claimant before the Tribunal.

8. The Tribunal adjudicated the issues with reference to the documents and the evidences produced by the respective parties.

9. The Tribunal arrived a conclusion based on the documents and the evidences that the accident occurred due to rash and negligent driving of the driver of the MTC bus.

10. As far as the quantum of compensation is concerned, the disability assessment was made by the Doctor and not by the Medical Board. Therefore, it was made clear that the disability is not assessed by the Doctor. Under those circumstances, the Tribunal arrived a conclusion that 25% disability shall be taken for the purpose of quantifying the compensation. Thus, this Court is not inclined to interfere with the disability assessed by the Tribunal for the purpose of quantification of the compensation.

11. Ex.P-1 A.R. copy and Discharge Summaries Exs.P-2 and P-3 reveal that the appellant-claimant had taken initial treatment in the Government Hospital. The appellant-claimant sustained fractures and had taken treatment. Undoubtedly, the injuries sustained by the appellant-claimant are grievous. However, this Court is of the considered opinion that the percentage of disability cannot be increased as the Tribunal has rightly come to a conclusion based on the nature of wounds as well as the treatment taken.

12. The learned counsel for the appellant-claimant questioned the disability compensation by stating that only a sum of Rs.3,000/- per percentage is awarded. The accident occurred in the year 2016. This Court is of the opinion that at least a sum of Rs.4,000/- would have been fixed per percentage for disability, since the accident occurred in the year 2016. However, the Tribunal has not granted a sum of Rs.4,000/-, but granted compensation under various other heads, which all are on the higher side. For example, for pain and sufferings Rs.50,000/- is granted, for loss of amenities Rs.30,000/- is granted and for transportation Rs.20,000/- is granted.

13. In view of the fact that the compensation has been granted under various other heads by the Tribunal, are on the higher side, by enhancing the disability compensation from Rs.3,000/- to Rs.4,000/- would not make as much difference and only by tinkering the compensation under various heads, no purpose would be served. In fact, the overall compensation of Rs.2,38,600/- granted by the Tribunal is just and reasonable. Therefore, this Court is not inclined to interfere with the quantum of compensation awarded by the Tribunal.

14. Accordingly, the judgment and decree dated 12.10.2018 passed in M.C.O.P. No.352 of 2017 by the learned IV Judge, Small Causes Court-cum-Motor Accidents Claims Tribunal, Chennai, stands confirmed and consequently, CMA No.3509 of 2019 is dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

Svn

To

1.The IV Judge,
Small Causes Court-cum-
Motor Accidents Claims Tribunal,
Chennai.

+lcc to Dr.S.S.Swaminathan, Advocate, S.R.No.30221

CMA No.3509 of 2019

LN(CO)
CB(27/05/2021)