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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.3361 of 2014

A.Chandru (minor)
(declared as major as per order in
M.P.No.3855/2013 dated 12.12.2013) .. Appellant / Claimant

Vs.

Tamil Nadu State Transport Corporation Ltd.
(Vellore Division-II)
Represented by its
Managing Director, 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 07.02.2014 made in M.A.C.T.O.P.No.4127 of 2005 on the file of Motor Accident Claims Tribunal, III Small Causes Court, Chennai.

For Appellant : Mr.R.Kalai Arasan
for Mr.N.M.Muthurajan

For Respondent : Mr.K.J.Sivakumar

J U D G M E N T

This matter is heard through "Video Conferencing".

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 07.02.2014 made in M.C.O.P.No.4127 of 2005 on the file of Motor Accident Claims Tribunal, III Small Causes Court, Chennai.

2.The appellant is claimant in M.C.O.P.No.4127 of 2005 on the file of Motor Accident Claims Tribunal, III Small Causes Court, Chennai. The appellant filed the said claim petition claiming a sum of Rs.7,00,000/- as compensation for the injuries sustained by him in the accident that took place on 02.01.2005.



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3.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 and directed the respondent/Transport Corporation to pay a sum of Rs.2,18,000/- as compensation to the appellant.

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

5.The learned counsel appearing for the appellant contended that in the accident, the appellant suffered multiple injuries all over the body, skin and muscle grafting were done at left leg. Ex.P5/photograph series was marked to prove the same. The appellant has taken treatment in Government Medical College Hospital, Vellore, from 12.01.2005 to 28.01.2005, in Stanley Medical College Hospital, from 11.02.2005 to 26.02.2005 and thereafter in Mahalakshmi Clinic from 01.03.2005 to 28.04.2005, totally for more than three months. The appellant examined P.W.2/Doctor, who deposed to that effect. P.W.2/Doctor examined the appellant and certified that the appellant suffered 40% partial and permanent disability. The Tribunal fixed the disability at 40% and awarded a sum of Rs.80,000/- towards disability at the rate of Rs.2,000/- per percentage of disability, which is meagre. The appellant was studying 7th standard at the time of accident. Due to the injuries, he lost one year studies. The Tribunal has awarded only a sum of Rs.30,000/- towards loss of studies as against the claim of Rs.75,000/-. 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 materials placed before it, awarded compensation, which are not meagre. The appellant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

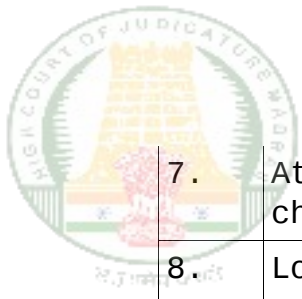
7.Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the respondent/Transport Corporation and perused the entire materials on record.

8.From the materials available on record, it is seen that it is the contention of the appellant that in the accident, the



appellant suffered fracture of left ankle and sustained injuries in the left foot, left leg, left forearm and skin and muscle grafting were done in the left leg. He has taken treatment in Government Medical College Hospital, Vellore, from 12.01.2005 to 28.01.2005, in Stanley Medical College Hospital, from 11.02.2005 to 26.02.2005 and thereafter in Mahalakshmi Clinic from 01.03.2005 to 28.04.2005, totally for more than three months. The appellant examined the Doctor as P.W.2 to prove the injuries. P.W.2/Doctor examined the appellant and certified that the appellant suffered 40% disability and issued Ex.P9/disability certificate. The Tribunal accepted the percentage of disability assessed by P.W.2/Doctor and awarded a sum of Rs.80,000/- towards disability at the rate of Rs.2,000/- per percentage of disability and the same is in order. Considering the age of the appellant, disability, nature of injuries and period of treatment taken by the appellant, the amounts awarded by the Tribunal towards pain and suffering, attendant charges and extra nourishment are enhanced to Rs.50,000/-, Rs.20,000/- and Rs.20,000/- respectively. The amounts awarded by the Tribunal under all 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.	Disability	80,000	80,000	Confirmed
2.	Loss of income	30,000	30,000	Confirmed
3.	Transportation	10,000	10,000	Confirmed
4.	Extra nourishment	10,000	20,000	Enhanced
5.	Damage to clothes	1,000	1,000	Confirmed
6.	Medical expenses	30,000	30,000	Confirmed



7.	Attendant charges	7,000	20,000	Enhanced
8.	Loss of amenities	15,000	15,000	Confirmed
9.	Pain and suffering	35,000	50,000	Enhanced
	Total	2,18,000	2,56,000	Enhanced by Rs.38,000/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,18,000/- is hereby enhanced to Rs.2,56,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit excluding the period of default from 05.10.2009 to 02.12.2013. 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. On such deposit, the appellant is permitted to withdraw the award amount now determined by this Court along with interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The III Judge

The Motor Accident Claims Tribunal
Small Causes Court, Chennai.

2.The Section Officer

V.R.Section
High Court, Chennai.

+1cc to M/s.K.J.Sivakumar, Advocate, S.R.No.41894

C.M.A.No.3361 of 2014

SSV(CO)

SB(09/09/2021)