

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2020

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A.No.3192 of 2019

Praveen Kumar

.. Appellant/Petitioner

vs.

The Managing Director
Tamil Nadu State Transport Corporation
Trichy District.

.. Respondent/Respondent

The Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 22.05.2019 passed in MCOP.No.1357 of 2016 on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate, Namakkal.

For Appellant : Mr.T.S.Arthanareeswaran

For Respondent : Mr.D.Venkatachalam

J U D G M E N T

The judgment and decree dated 22.05.2019 passed in MCOP No.1357 of 2016 on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate, Namakkal, is under challenge in the present Civil Miscellaneous Appeal.

2. The claimant is the appellant, who filed this appeal seeking enhancement of compensation.

3. The learned counsel appearing on behalf of the appellant mainly contended that the compensation awarded by the Motor Accident Claims Tribunal is not in commensuration with the grievousness of the injuries sustained by the appellant/claimant. The appellant/claimant sustained multiple fractures due to the accident and had taken treatment as inpatient for about one month. He is self-employed and running an Aquarium shop and there is a loss of earning power and business loss. The doctor assessed the disability at 45%. All

these aspects have not been considered by the Tribunal. Contrary, the Tribunal has fixed the disability at Rs.3,000/- for one percentage and calculated the compensation, which is improper and inadequate .

4. It is contended by the appellant/claimant that at the time of accident, he was aged about 26 years and the grievous injuries caused disability and the appellant/claimant was incapacitated to perform his business activities in a routine and normal manner.

5. The learned counsel appearing on behalf of the respondent/Tamil Nadu State Transport Corporation disputed the contentions by stating that the Tribunal has assessed the compensation with reference to the documents produced by the claimant. There is no proof to establish the monthly income of the appellant/claimant and not even, the bank statement is produced. Thus, in the absence of any document to establish the monthly income, the Tribunal has arrived the conclusion and fixed the monthly income of the appellant/claimant as Rs.5,000/- and awarded compensation. Thus, the appeal is devoid of merits and is to be dismissed.

6. Considering the arguments, the accident occurred on 11.05.2016 at about 4.30 p.m at Trichy to Salem Road near Gunaseelam opposite to KES Thirumana Mahal. The Vathalai police station registered a case in Crime No.93 of 2016 under Sections 279, 337 IPC. The appellant/claimant sustained grievous injuries in his right femur and foot and also multiple injuries all over his body. The Tribunal adjudicated the issues with reference to the documents and evidences produced by the respective parties. The negligence was attributed against the driver of the respondent Transport Corporation bus. The findings of the Tribunal is that the bus driver had driven the vehicle in a rash and negligent manner which resulted in an accident. As far as the quantum of compensation is concerned, the Tribunal has fixed a sum of Rs.3,000/- for one percentage. Therefore, this Court is of the considered opinion that the accident occurred in the year 2016 and fixing a sum of Rs.3,000/- is on the lesser side. The appellant/claimant is self-employed and he is running an Aquarium shop. Thus, a sum of Rs.5,000/- for one percentage of disability would be appropriate considering the fact that the accident occurred during the year 2016. This apart, the appellant had taken his treatment for about a month and the loss of income has been calculated only for two months. This also deserves to be enhanced. The appellant/claimant had taken treatment even after his discharge from the hospital. Therefore, it would be appropriate if the loss of income is assessed for a period of six months. No attender charges was granted. Thus, this Court

has to grant some attender charges. For all these reasons, the total compensation of Rs.7,09,260/- awarded by the Tribunal is enhanced as detailed hereunder:

1) Loss of Income (6 x 5000)	:	Rs.	30,000/-
2) Transportation charges	:	Rs.	10,000/-
3) For Nutrition	:	Rs.	20,000/-
4) Medical Bills	:	Rs.	4,74,260/-
5) For permanent disability (45% x 5000)	:	Rs.	2,25,000/-
6) Pain and suffering	:	Rs.	75,000/-
7) Attender charges	:	Rs.	20,000/-

Total: Rs.8,54,260/-

7. Thus, the appellant/claimant is entitled for the total compensation of Rs.8,54,260/- along with interest at the rate of 7.5% per annum. The respondent Transport Corporation is directed to deposit the enhanced award amount with accrued interest within a period of 12 weeks from the date of receipt of a copy of this judgment and on such deposit, the appellant/claimant is permitted to withdraw the entire amount by filing an appropriate application and the payments are to be made through RTGS. The appellant/claimant is directed to pay additional court fee, if any within a period of two weeks from the date of receipt of a copy of this judgment.

8. Accordingly, the Judgment and Decree dated 22.05.2019 passed in M.C.O.P.No.1357 of 2016 stands modified and the Civil Miscellaneous Appeal stands allowed in part. No costs.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

1.The Motor Accident Claims Tribunal,
Chief Judicial Magistrate, Namakkal.

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

C.M.A.No.3192 of 2019

PA (CO)
GMV (26/04/2021)