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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1119 of 2017

A.Kannan

.. Appellant/Petitioner

Vs.

The Tamil Nadu State Transport Corporation,
Rep.by its Managing Director,
Kumbakonam Division No.1,
Kumbakonam.

.. Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 28.11.2007 made in M.C.O.P.No.4100 of 2001, on the file of the Motor Accidents Claims Tribunal, (IV Court of Small Causes, Chennai.)

For Appellant : Mr.P.D.Selvaraj

For Respondent : Mr.S.V.Vasanth Kumar

J U D G M E N T

Being dissatisfied with the quantum of compensation awarded by the Tribunal, in and by award dated 28.11.2007 made in MCOP.No.4100 of 2001, the appellant/claimant has filed the present Civil Miscellaneous Appeal.

2.According to the appellant/claimant, on 10.08.2000 at about 21.30 hours, when he was travelling as a pillion rider in the motorcycle bearing Registration No.TN 22 K 6776 proceeding from Vadapalani to Pallavaram in the GST Road, the TNSTC bus bearing Registration No. TN-49-N-1170 belonging to the respondent Transport Corporation came in a rash and negligent manner and hit the motorcycle from behind. As a result of the same, the appellant / claimant sustained grievous injuries. Stating that the accident had occurred due to the rash and negligent driving of the driver of the bus, he filed a claim petition, claiming a compensation of Rs.6,00,000/-. The Tribunal, after considering the oral and documentary evidence available on record, awarded a compensation of Rs.80,000/- with



interest at 7.5% per annum from the date of petition. Aggrieved over the quantum of compensation so awarded, the appellant is before this Court with the present appeal seeking enhancement of the same.

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3.The learned counsel for the appellant/claimant has submitted that the Tribunal has awarded a lesser sum of Rs.50,000/- for 50% permanent disability. The learned counsel further submitted that the amounts awarded under other heads are meagre and the same have also to be enhanced substantially.

4.Per contra, the learned counsel for the respondent Transport Corporation has submitted that after properly analysing the materials and evidence, the Tribunal has awarded the compensation, which is just and reasonable and hence, the same does not require any interference in the hands of this Court.

5.Heard the learned counsel on either side and perused the materials available on record.

6.The appellant/ claimant himself examined as P.W.1. According to him, he was aged about 25 years and he was earning a sum of Rs.200/- per day as a Mason. The doctor, who treated the claimant, was examined as P.W.3 and as per his deposition, the appellant/claimant sustained 50% permanent disability. Ex.P5 is the disability certificate issued by him. After considering the oral and documentary evidence available on record, the Tribunal has awarded a sum of Rs.50,000/- towards permanent disability, fixing Rs.1,000/- per percentage of disability. Taking note of the fact that the accident occurred in the year 2000 and also the injuries suffered by the claimant, it would be appropriate to fix a sum of Rs.2,000/- per percentage of disability. If that is done, the amount towards permanent disability works out to Rs.1,00,000/- and accordingly it is modified.

7.The Tribunal has not awarded any amount towards medical expenses, future medical expenses and attender charges. It is seen that due to the injuries sustained by the appellant / claimant on his right hand, skin grafting treatment has been done, for which he incurred a substantial sum, towards medical expenses. Even though no documents were produced to substantiate the same, considering the nature of the injuries, percentage of disability as well as the period of treatment undergone by him, this Court is inclined to award sums of Rs.50,000/-, Rs.25,000/- and Rs.5,000/- under those heads, respectively. Further, taking note of the facts and circumstances of the case, this Court feels it just and appropriate to enhance the compensation awarded by the Tribunal under the heads viz., Loss of income



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during treatment period, Transportation, extra nourishment, mental agony and pain and suffering, and loss of earning power to Rs.10,000/-, Rs.5,000/-, Rs.5,000/-, Rs.10,000/- and Rs.20,000/- respectively. The details of the modified compensation are as follows:-

HEADS	AMOUNT (Rs.)
Permanent Disability	1,00,000/-
Medical charges	50,000/-
Future medical expenses	25,000/-
Attender charges	5,000/-
Loss of Income during treatment period	10,000/-
Transportation	5,000/-
Extra Nourishment	5,000/-
Mental agony and Pain and suffering	10,000/-
Loss of earning power	20,000/-

TOTAL....	2,30,000/- =====

Thus, the compensation awarded by the Tribunal stands enhanced to Rs.2,30,000/- with interest at the rate of 7.5% per annum from the date of petition. It is made clear that the appellant/claimant is not entitled for interest for the period of delay in re-presenting the appeal, in respect of the enhanced amount of compensation. It is also made clear that the appellant has to pay appropriate Court fee in order to receive the awarded amount.

8.The respondent Transport Corporation is directed to deposit the modified compensation amount as ordered above, after deducting the amount, if any, already deposited, within a period of eight 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 same on making proper application before the Tribunal.

9.Accordingly, this Civil Miscellaneous Appeal is allowed in part. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Section Officer,
VR Section, High Court,
Madras.

C.M.A.No.1119 of 2017

CNR (CO)
CB (15/07/2021)