

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2020

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.1920 of 2017

M.Yuvaraj

... Appellant

vs.

The Managing Director,

Metropolitan Transport Corporation Limited,

Pallavan Salai, Chennai - 600 002.

... Respondent

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 20.01.2017 made in M.C.O.P.No.4717 of 2014 on the file of the Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai.

For appellant : Mr.K.Suryanarayanan

For respondent : Mr.S.S.Swaminathan

J U D G M E N T

The claimant is the appellant herein. Aggrieved against the quantum of compensation awarded by the Claims Tribunal at Rs.4,26,000/- with interest at 7.5% per annum, the appellant is before this Court.

2. The challenge to the appeal by the claimant/appellant is with regard to quantum alone and hence, the findings rendered by the Tribunal on negligence are confirmed as such.

3.It is the case of the claimant/appellant that on 21.04.2014 at about 18.45 hours, when the claimant was travelling as a passenger in MTC bus bearing Registration No.TN-01-N-5319 belonging to the respondent Transport Corporation, in Thirumudivakkam Road – Kundrathur, the driver of the bus drove it rashly and negligently and had applied a sudden break. Due to the said impact, the claimant was thrown out from the bus and sustained grievous injuries. Since the respondent is vicariously liable to pay compensation, the claimant has preferred the claim petition before the Tribunal. The Tribunal, after framing issues and recording evidence, has

fastened the liability on the Transport Corporation and ultimately quantified the compensation in the following manner:-

HEADS	AMOUNT (Rs.)
Transportation, nourishing food and miscellaneous expenditure	50,000/-
Medical expenses	1,17,400/-
Attender charges	10,000/-
Damages for pain, suffering and trauma	50,000/-
Disability	1,65,000/-
Loss of earning during treatment period	13,000/-
Loss of amenities	20,000/-

TOTAL.....	4,25,400/-
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	(Rounded off to Rs.4,26,000/-)

4.Heard both sides.

5.The learned counsel for the appellant/claimant has submitted that the Tribunal has failed to award compensation in a proper perspective; the Tribunal having found that the claimant/appellant is a carpenter by avocation, failed to appreciate the documents filed in support of the same. He further submitted that because of the disabilities suffered by the claimant, he would be prevented from carrying out his avocation as before;

that the Tribunal has failed to award compensation under the heads pain and sufferings, loss of amenities and mental agony etc; in any event, the total amount of compensation awarded by the Tribunal is meager and needs significant increase.

6.Per contra, the learned counsel for the respondent/Transport Corporation has submitted that the Tribunal has taken each and every aspect into consideration and has awarded the just compensation which does not require any interference by this Court; in fact, the Tribunal has taken note of the evidence and documents on record and ultimately arrived at the compensation, which is perfectly valid in the eye of law.

7.A perusal of the award of the Tribunal would go to show that the Tribunal has analysed the evidence of PW2 along with Exs.P13 and P14 with regard to the treatment given to the appellant/claimant. Exs.P2 and P4 would go to show that the claimant has taken treatment in various hospitals after the accident. Exs.P3 and P5-Medical bills support the case of the claimant in total and hence the amount awarded by the Tribunal towards

medical expenses at Rs.1,17,400/- requires no interference. As far as the amounts awarded under the heads “Transportation, Nourishing food and miscellaneous expenditure”, “Attender Charges” and “Disability” at Rs.50,000/- Rs.10,000/- and 1,65,000/- respectively are concerned, the same are quantified based on the settled principles of law and hence, they are confirmed as such.

8.It is borne out from the evidence and it is observed by the Tribunal that the Doctor has assessed the disability at 60%. It is not in dispute that the claimant at the time of accident was aged about 19 years and carpenter by avocation. When that be so, the amount awarded towards pain and sufferings and loss of amenities needs revisit.

9.With the sufferings stated by the Doctor in his evidence, the appellant has to lead his entire life. Hence, the amount awarded by the Tribunal at Rs.50,000/- and Rs.20,000/- towards pain and sufferings and loss of amenities are enhanced to Rs.80,000/- and Rs.50,000/- respectively. The tribunal has not awarded any sum towards loss of marital prospects. It would be appropriate to award a sum of Rs.50,000/- towards loss of marital prospects. The claimant had taken treatment in various hospitals from

23.07.2012 to 25.07.2012 and from 21.04.2014 to 10.05.2014. It is evident from the records produced that the appellant had sustained fracture on left leg both bone, treatment 1st operation with "G" wire, 2nd surgery 23.07.2012 to 25.07.2012 with implant removal & I.L. Nailing with screw & Bone grafting. Further, the fracture is malunited. The patient sustained healed painful hyper trophy scar, shortening 2.5 c.m. left leg, stiffness of (L) knee 0-40 degree available and post traumatic stiffness of (L) Ankle (0-20 degree). The claimant has difficulty in squatting and walking with limb. Ex.P13 Disability Certificate has been issued by the Doctor in support of the aforesaid disabilities.

10. Having regard to the nature of injuries and the period of treatment, the Tribunal ought to have awarded loss of earning during treatment period for four months instead of two months. Hence, awarding a sum of Rs.26,000/- on the head loss of earning during treatment period is justifiable and it is awarded accordingly.

11. The Tribunal has not awarded any sum towards future medical expenses. The Doctor, who has given treatment to the claimant has certified that the severity of the injuries sustained by the claimant would be 55% and

Ex.P12-CD has also been marked to that effect. With the above stated discomforts, the claimant has to lead his future life and there is shortening of his leg by 5cm. It would be appropriate to award a sum of Rs.50,000/- towards future medical expenses. The Tribunal has also not awarded any sum towards damage to clothes and hence, a sum of Rs.1,000/- is awarded towards that count.

12.The details of the modified compensation are as follows:

HEADS	AMOUNT (Rs.)
Transportation, nourishing food and miscellaneous expenditure	50,000/-
Medical expenses	1,17,400/-
Attender charges	10,000/-
Damages for pain, suffering and trauma	80,000/-
Disability	1,65,000/-
Loss of earning during treatment period	26,000/-
Loss of amenities	50,000/-
Loss of marital prospects	50,000/-
Future medical expenses	50,000/-
Damages to clothes	1,000/-
TOTAL.....	5,99,400/-

(Rounded off to Rs.6,00,000/-)

13. Thus the appellant/claimant is entitled to the modified compensation of Rs.6,00,000/- with interest at the rate of 7.5% per annum from the date of claim petition. It is made clear that the claimant has to pay the appropriate Court fee in order to receive the awarded amount. The respondent Transport Corporation is directed to deposit the modified amount of compensation, as ordered above, less the amount if any already deposited, within a period of six 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. No costs.

04.08.2020

srk

Index : yes/no

Internet : yes/no

speaking/non-speaking order

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To

1. The II Court of Small Causes,
Motor Accidents Claims Tribunal,
Chennai.
2. The Section Officer,
V.R.Section, High Court, Madras.

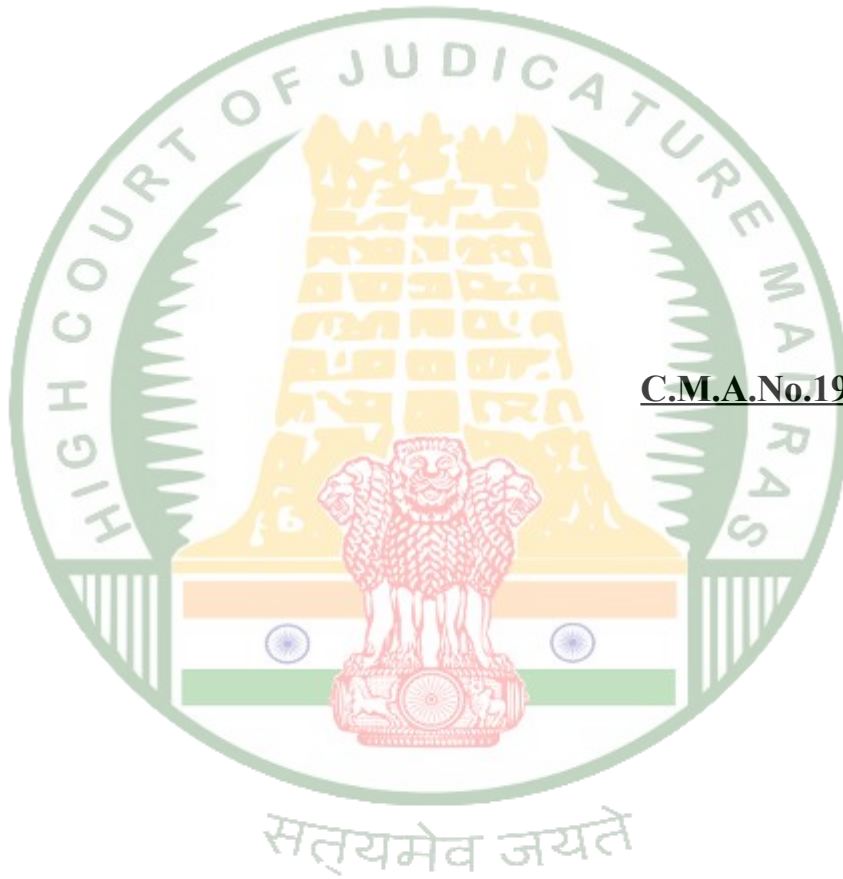


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