



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2792 of 2017

Ansar @ Ansal

Minor Rep.by father Abdul Khader

.. Appellant/Petitioner

Vs.

Tamil Nadu State Transport Corporation Ltd.,

Rep.by Managing Director,

Villupuram Division III,

Kanchipuram District.

.. Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 12.07.2007 made in M.C.O.P.No.1256 of 2002, on the file of the Motor Accidents Claims Tribunal, Small Causes Court No.6, Chennai.

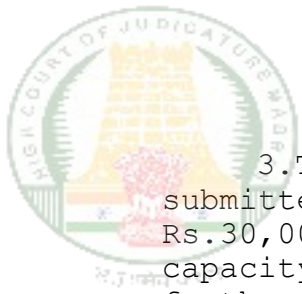
For Appellant : Mr.N.S.Sivakumar

For Respondent : Mr.C.S.K.Sathish

J U D G M E N T

Being not satisfied with the quantum of compensation awarded by the Tribunal, the appellant/claimant has filed the present Civil Miscellaneous Appeal.

2.According to the appellant/claimant, on 02.11.2001 at about 4.30pm, when he was walking near Maduravoyal Market at P.H.Road, Chennai, the bus bearing Registration No.TN-32-N-0434 belonging to the respondent Transport Corporation, came in a rash and negligent manner and hit the claimant. As a result of the same, the appellant/claimant sustained grievous injuries. He filed a claim petition, claiming a compensation of Rs.4,00,000/- before the Tribunal. The Tribunal, after considering the oral and documentary evidence, awarded a compensation of Rs.70,000/- 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 compensation.



3.The learned counsel for the appellant/claimant has submitted that the Tribunal has awarded a lesser sum of Rs.30,000/- for 30% permanent disability and loss of earning capacity and the same needs to be enhanced. The learned counsel further submitted that the amounts awarded under other heads are meagre and the same have 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, fair 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 carefully.

6.The Tribunal has awarded a compensation of Rs.70,000/- to the appellant/ claimant. P.W.2/claimant deposed in his evidence that at the time of accident, he was aged 10 years and was studying 5th standard. In the accident, he sustained fracture on the left leg and multiple injuries all over the body. The Doctor, who treated the claimant, was examined as P.W.3 and according to him, the appellant/claimant has sustained 30% permanent disability. Ex.P5 is the disability certificate and Ex.P6 is the X-Ray. The Tribunal has awarded a sum of Rs.30,000/- towards disability at the rate of Rs.1,000/- per percentage of disability. This Court is of the considered view that awarding a sum of Rs.2,000/- per percentage of disability, would meet the ends of justice. If that is done, the amount towards disability works out to Rs.60,000/-. Further, it would be appropriate to enhance the amount awarded towards pain and suffering from Rs.10,000/- to Rs.15,000/- and to award a sum of Rs.5,000/- each towards extra nourishment, attender charges and transportation expenses, as the claimant would have spent some amount towards nutritious food and he would have availed the assistance of an attender, during the period of treatment and taking note of the fact that no amount has been awarded towards transportation expenses for travel to hospital. The amount awarded towards loss of earning power at Rs.30,000/- is confirmed. The details of the modified compensation are as follows:

HEADS	AMOUNT (Rs.)
Permanent disability (30%)	60,000/-
Pain and suffering	15,000/-
Loss of earning power	30,000/-
Transportation expenses	5,000/-
Attender charges	5,000/-



Extra nourishment

5,000/-

TOTAL....

1,20,000/-
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Thus, the appellant/claimant is entitled to the modified compensation of Rs.1,20,000/- with interest at the rate of 7.5% per annum from the date of petition.

7.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 six weeks from the date of receipt of a copy of this judgment. During the time of filing the claim petition, ie., in the year 2002, the appellant was 10 years old. Now, he would have attained majority. Hence, on such deposit being made, the appellant / claimant is permitted to withdraw the same on making proper application before the Tribunal. It is made clear that the appellant/claimant has to pay the appropriate Court fee in order to receive the awarded amount.

8.Accordingly, the Civil Miscellaneous Appeal is allowed in part. No costs.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal,
Small Causes Court No.6, Chennai.

Copy To

The Section Officer,
VR Section, High Court,
Madras. (2 Copies)

+1cc to Mr.C.S.K.Sathish, Advocate, S.R.No. 27261

C.M.A.No.2792 of 2017

MP(CO)
GN(19/08/2021)