

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.389 of 2017

Murugesan

.. Appellant

Vs.

The Managing Director
Tamil Nadu State Transport
Corporation Ltd.,
Division-II, Sathuvachari
Vellore-632 009.

.. Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 28.10.2013 made in M.C.O.P.No.1242 of 2013 on the file of the Motor Accident Claims Tribunal, (Special Subordinate Judge, Tirupattur).

For Appellant : Mr.V.Parivallal

For Respondent : Mr.S.Sairam

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the Tribunal in the award dated 28.10.2013 made in M.C.O.P.No.1242 of 2013 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Tirupattur.

2.The appellant is the claimant in M.C.O.P.No.1242 of 2013 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Tirupattur. He filed the above said claim petition, claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by him in the accident that took place on 19.02.2011.

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 the respondent/ Transport Corporation and directed the respondent to pay a sum of Rs.3,85,900/- 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. Learned counsel appearing for the appellant contended that due to the amputation of left leg below the knee, the appellant lost his job. The Tribunal ought to have awarded compensation by adopting multiplier method instead of percentage method. The Government Department for Differently Abled Persons assessed the disability of the appellant as 60% and issued Identity Card for the same. In any event, the Tribunal ought to have awarded compensation for 60%. The amounts awarded by the Tribunal under the heads extra nourishment, pain and sufferings and transportation are meagre. The Tribunal has not awarded any amount towards future medical expenses and attendant charges and prayed for enhancement of the compensation.

6. Per contra, the learned counsel appearing for the respondent-Transport Corporation contended that it is not correct to state that due to the amputation, the appellant lost his earning capacity. The appellant was given alternative duty with same salary and there is no loss of income. Hence, the appellant is not entitled to compensation by adopting multiplier method. In the absence of any document with regard to the loss of income, the Tribunal erred in granting compensation of Rs.25,000/- each towards loss of expectation of life and amputation and humiliation. The appellant has not proved that he require amounts for future medical treatment. 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. It is the contention of the appellant that in the accident, initially the left toe of the appellant was amputated and subsequent to award, his left leg below the knee was amputated. P.W.2 /Doctor assessed the disability of the appellant as 45%. The Government Department for Differently Abled Persons assessed the disability of the appellant as 60% and issued Identity Card, to prove the same. The appellant has not denied that he is continuing his job in respondent's corporation. In view of the same, he is not entitled for compensation by applying multiplier method. The Tribunal has granted for a sum of Rs.2,000/- per percentage for 45% disability. In view of the Identity card issued by the Government Department for Differently Abled Persons, the

appellant is entitled to compensation for 60% disability at the rate of Rs.3,000/- per percentage. Thus, a sum of Rs.1,80,000/- (Rs.3,000/- x 60) is awarded towards disability at the rate of Rs.3,000/- per percentage for 60% disability. The appellant has taken treatment for more than 60 days. The Tribunal has not awarded any amount towards attendant charges. Considering the nature of injuries and period of treatment taken by the appellant, a sum of Rs.15,000/- is awarded towards attendant charges. The Tribunal has awarded a meagre amount towards extra nourishment and the same is hereby enhanced to Rs.25,000/-. The appellant has not let in any evidence to show that he requires future medical treatment and hence, he is not entitled to any amount towards future medical expenses. The amounts granted by the Tribunal under the other heads are just and reasonable and hence, they 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
1.	Loss of income	41,820/-	41,820/-	Confirmed
2.	Extra nourishment	5,000/-	25,000/-	Enhanced
3.	Medical expenses	1,18,093/-	1,18,093/-	Confirmed
4.	Transportation	26,000/-	26,000/-	Confirmed
5.	Permanent disability	90,000/-	1,80,000/-	Enhanced
6.	Pain and sufferings	30,000/-	30,000/-	Confirmed
7.	Loss of amenities	25,000/-	25,000/-	Confirmed
8.	Loss of expectation of life	25,000/-	25,000/-	Confirmed
9.	Amputation & Humiliation	25,000/-	25,000/-	Confirmed
10.	Attendant charges	-	15,000/-	Granted
	Total	3,85,913/-	5,10,913/-	Enhanced by Rs.1,25,000/-

	Rounded off to	Rs.3,85,900/-	Rs.5,10,900/-	
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9. In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.3,85,900/- is hereby enhanced to Rs.5,10,900/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant is directed to pay necessary Court fee, if any, on the enhanced compensation. The respondent is directed to deposit the enhanced 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/ claimant is permitted to withdraw the enhanced award amount, along with interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vkr

To

1. The Motor Accident Claims Tribunal/
The Special Subordinate Judge, Tirupattur.

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

+2cc to Mr.V.Parivallal, Advocate, S.R.No. 5195
+1cc to Mr.S.Sairaman, Advocate, S.R.No. 5086

GP (CO)
GN (20/01/2021)

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