

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.09.2020

DELIVERED ON : 30.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.NO.437 OF 2017

N.Annamalai

.. Appellant/
Petitioner

Vs.

The Managing Director,
The Tamil Nadu State Transport
Corporation Limited,
No.3/137, Salamedu,
Vazhuthareddy and Post,
Villupuram Taluk - 605 402.

.. Respondent/
Respondent

Prayer:

This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 01.09.2016 made in M.A.C.T.O.P.No.2779 of 2015 on the file of the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai.

For Appellant : Ms.M.Malar

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

J U D G M E N T

The Civil Miscellaneous Appeal has been filed against an award dated 01.09.2016 passed by the learned Motor Accident Claims Tribunal, IV Small Causes Court, Chennai, in M.A.C.T.O.P.No.2779 of 2015.

2.The case in brief is as follows:

On 27.11.2012 at about 09.20 p.m., the appellant / claimant was travelling as a passenger in the respondent's bus bearing Registration No.TN 32 N 3730 from Chennai to Puducherry. The

driver of the said bus drove it in a rash and negligent manner and dashed against the MTC bus bearing Registration No.TN 01 N 9234, which was waiting for signal before the 100 feet road, Periyar Pathai Signal, Choolaimedu, Chennai. Due to the said impact, the appellant/ claimant sustained grievous and multiple injuries all over the body. The appellant/claimant filed a claim petition before the Tribunal, claiming a sum of Rs.6,00,000/- as compensation. Considering the materials and evidence available on record, the Tribunal has held that the accident had occurred only due to the rash and negligent driving of the driver of the bus belonging to the respondent/Transport Corporation and directed the respondent to pay a sum of Rs.1,88,700/- as compensation to the appellant.

3. Being dissatisfied with the quantum of compensation awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

4. The learned counsel appearing for the appellant has submitted that the compensation awarded by the Tribunal at Rs.1,88,700/- is not in consonance with the grievous injuries and fractures sustained in the accident and the treatment undergone by the claimant in various private hospitals and the further fact that he is even now, undergoing treatment. She has also submitted that the amounts awarded by the Tribunal towards pain and suffering, extra nourishment and transport to hospital are very low. Hence, the compensation awarded by the Tribunal has to be enhanced substantially.

5. Per contra, the learned counsel appearing for the respondent/Transport Corporation has submitted that the Tribunal, after considering all the materials available on record in proper perspective, has awarded the compensation, which is just, fair and reasonable and hence the same need not be interfered with by this Court.

6. Heard the learned counsel appearing for the appellant as well as the respondent/Transport Corporation and perused the materials available on record, carefully.

7. The Tribunal has awarded a sum of Rs.1,05,000/- towards 35% disability at the rate of Rs.3,000/- per percentage of disability. It is seen that the Doctor who examined the claimant, assessed the disability of the claimant at 50%. To prove the same, he has produced Ex.P10/disability certificate and Ex.P11/x-ray. However, the Tribunal has reduced the percentage of disability from 50% to 35% observing that P.W.2/Doctor has not filed any work sheet and guidelines. But, according to the appellant, due to the accident, he sustained fracture in left patella, injuries in inferior temporal line,

cut injuries 2 x 0.5 x 0.5 cm lower lip and crush injuries in upper central incisor and multiple injuries all over the body. Taking note of the injuries, this Court deems it fit to fix the percentage of disability at 40%. If that is done, the amount awarded by the Tribunal towards disability works out to Rs.1,20,000/- and it is awarded accordingly.

8.Further, considering the nature of the injuries and the percentage of disability sustained by the appellant, this Court is of the considered view that it would be appropriate to enhance the amounts awarded by the Tribunal towards pain and suffering, extra nourishment, transport to hospital and attender charges to Rs.35,000/-, Rs.5,000/-, Rs.5,000/- and Rs.3,800/- respectively. However, the amounts awarded by the Tribunal towards other heads, i.e., damage to clothes at Rs.750/-, medical expenses at Rs.5,000/-, future medical expenses at Rs.3,000/-, loss of income at Rs.31,136/- and loss of amenities at Rs.5,000/- are just and reasonable and hence, the same are confirmed as such.

9.Thus, the appellant/claimant is entitled to the modified compensation of Rs.2,13,700/- with interest at the rate of 7.5% per annum from the date of petition, the details of which are as under:

S.No	HEADS	Amount (Rs.)
1.	Disability	1,20,000
2.	Pain and suffering	35,000
3.	Extra nourishment	5,000
4.	Transport to Hospital	5,000
5.	Damages to clothes	750
6.	Attender charges	3,800
7.	Medical expenses	5,000
8.	Future medical expenses	3,000
9.	Loss of income	31,136
10.	Loss of amenities	5,000
	Total	2,13,686

(Rounded off to Rs.2,13,700/-).

10.In the result, the Civil Miscellaneous Appeal is partly allowed. No costs. The respondent/Transport Corporation is directed to deposit the modified amount of compensation now

determined by this Court along with interest and costs, less the amount if any already deposited, within a period of twelve 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. It is made clear that the appellant/claimant has to pay appropriate Court fee in order to receive the awarded amount.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mtl

To

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

Copy To

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

+1cc to Ms.M.Malar, Advocate, S.R.No.32175

C.M.A.No.437 of 2017

EV(CO)
CS/30/04/2021

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