

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.537 of 2017

S.Jagadeesan

... Appellant/Petitioner

Vs.

The Managing Director,
Metropolitan Transport Corporation Limited,
Pallavan Salai, Chennai - 600 002. ... Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 12.08.2011 made in M.C.O.P.No.2260 of 2007 on the file of the Motor Accident Claims Tribunal, VI Small Causes Court, Chennai.

For Appellant : Mr.K.Varadha Kamaraj

For Respondent : Mr.S.Sivakumar

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 12.08.2011 made in M.C.O.P.No.2260 of 2007 on the file of the Motor Accident Claims Tribunal, VI Small Causes Court, Chennai.

2.The appellant is the claimant in M.C.O.P.No.2260 of 2007 on the file of the Motor Accident Claims Tribunal, VI Small Causes Court, Chennai. He filed the above said claim petition, claiming a sum of Rs.1,50,000/- as compensation for the injuries sustained by him in the accident that took place on 16.01.2007.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to the rash and negligent driving by the driver of the bus belonging to the respondent-Transport Corporation and directed the respondent-Transport Corporation to pay a sum of Rs.83,970/- as compensation to the appellant/claimant.

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. The learned counsel appearing for the appellant contended that the appellant was a carpenter and was earning a sum of Rs.4,000/- per month. The Tribunal ought to have awarded a sum of Rs.12,000/- as compensation towards loss of income, instead of Rs.8,000/-. The Tribunal has awarded meagre sum of Rs.30,000/- towards 15% disability. The appellant took treatment in the hospital as in-patient for three days from 16.01.2007 to 19.01.2007 and the Tribunal has not awarded any amount towards attendant charges. Due to the accident, the appellant lost his left ear. The Tribunal has not awarded any amount towards loss of amenities. The Tribunal has not awarded any amount towards future medical expenses. The amounts awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

6. Per contra, Mr.S.Sivakumar, learned counsel appearing for the respondent-Transport Corporation contended that the Tribunal has awarded a sum of Rs.30,000/- towards 15% disability at the rate of Rs.2,000/- per percentage of disability, which is not meagre. The appellant has not produced any medical records to show that he requires money for future medical treatment. In the absence of medical records to prove the said contention, the appellant is not entitled to any amount towards future medical expenses. The amounts awarded by the Tribunal under different heads are not meagre. The appellant has not made out any case for enhancement 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. From the materials available on record, it is seen that P.W.2/Doctor assessed that the appellant suffered 15% disability. The Tribunal considering the evidence of P.W.2/Doctor, has awarded a sum of Rs.30,000/- towards disability at the rate of Rs.2,000/- per percentage of disability. The accident is of the year 2007. The amounts awarded by the Tribunal for disability is proper. The appellant has contended that he was a carpenter and was earning a sum of Rs.4,000/- per month. In the absence of any material evidence with regard to avocation and income, the Tribunal has rightly awarded a sum of Rs.8,000/- towards loss of income for two months by fixing Rs.4,000/- per month as notional income of the appellant and the same is confirmed. The appellant has taken

treatment in the hospital as in-patient for three days from 16.01.2007 to 19.01.2007 and the Tribunal has not awarded any amount towards attendant charges. Therefore, a sum of Rs.10,000/- is awarded towards attendant charges. The appellant contended that he lost his left ear and the Tribunal has not awarded any amount towards loss of amenities. Therefore, a sum of Rs.30,000/- is awarded towards loss of amenities. The sum of Rs.5,000/- and Rs.3,000/- awarded by the Tribunal towards transportation and extra nourishment are meagre and the same are enhanced to Rs.10,000/- each. The amounts awarded by the Tribunal under other heads are just and reasonable and hence they are 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.	Disability	30,000/-	30,000/-	Confirmed
2.	Pain and sufferings	25,000/-	25,000/-	Confirmed
3.	Extra nourishment	3,000/-	10,000/-	Enhanced
4.	Transportation	5,000/-	10,000/-	Enhanced
5.	Medical expenses	11,966/-	11,966/-	Confirmed
6.	Loss of income	8,000/-	8,000/-	Confirmed
7.	Damage to cloth	1,000/-	1,000/-	Confirmed
8.	Attendant charges	-	10,000/-	Granted
9.	Loss of amenities	-	30,000/-	Granted
	Total	Rs.83,966/- rounded off to Rs.83,970/-	Rs.1,35,966/- rounded off to Rs.1,35,970/-	enhanced by Rs.52,000/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.83,970/- is hereby enhanced to Rs.1,35,970/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The respondent-Transport Corporation 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, to the credit of M.C.O.P.No.2260 of 2007 on the file of the Motor Accident Claims Tribunal, VI Small Causes Court, Chennai. On such deposit, the appellant 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. It is made clear that the appellant is not entitled for any interest for Rs.52,000/- the amount now enhanced by this Court, as per the order of this Court dated 03.02.2017 made in C.M.P.No.9082 of 2016 in C.M.A.SR.No.40169 of 2016. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The VI Judge,
Motor Accident Claims Tribunal,
Small Causes Court,
Chennai.

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

+1cc to Mr.K.Varadha Kamaraj, Advocate Sr.2654

+1cc to Mr.S.Sivakuar, Advocate Sr.2415

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