

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.4830 of 2019

Samuvel

.. Appellant/Petitioner

Vs.

1. The Managing Director,
Tamil Nadu State Transport Corporation,
12, Ramakrishna Road, Salem 636 007.
2. Daniel Raj
3. The Shriram General Insurance Company Limited,
1st Floor, No.5F, Sachin Plaza,
Reddiyur Block No.1,
Shri Ram Nagar,
Azhagapuram, Salem 636 016. ... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 02.03.2018 made in M.C.O.P.No.1179 of 2016 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge No.I, Salem.

For Appellant : Mr.T.S.Arthanareeswaran

For Respondents : Mr.D.Venkatachalam for R1

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 02.03.2018 made in M.C.O.P.No.1179 of 2016 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge No.I, Salem.

2.By consent of both the parties, this Civil Miscellaneous Appeal is taken up for final disposal at the admission stage itself.

3.The appellant is the claimant in M.C.O.P.No.1179 of 2016

on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge No.I, Salem. He filed the above said claim petition, claiming a sum of Rs.15,00,000/- as compensation for the injuries sustained by him in the accident that took place on 04.09.2015.

4.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 Transport Corporation bus bearing Registration No.TN 30 N 0014 belonging to the first respondent and directed the first respondent to pay a sum of Rs.3,59,461/- as compensation to the appellant. The Tribunal dismissed the claim petition as against the respondents 2 and 3.

5.Not being satisfied with the amounts awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

6.The learned counsel appearing for the appellant contended that the appellant was working as an electrician cum plumber and was earning a sum of Rs.15,000/- per month at the time of the accident. The Tribunal fixed a meagre sum of Rs.5,000/- as monthly income of the appellant and awarded a sum of Rs.2,48,400/- towards loss of dependency. The Tribunal has not awarded any amount towards attendant charges, damages to cloth and future medical expenses. The amounts awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

7.Per contra, Mr.D.Venkatachalam, learned counsel appearing for the first respondent- Transport Corporation contended that except oral evidence, the appellant has not produced any documents to prove his income. In the absence of any documents with regard to avocation and income, the Tribunal rightly fixed a sum of Rs.5,000/- as notional income of the appellant, which is just and reasonable. The amounts awarded by the Tribunal under different heads are not meagre and prayed for dismissal of the appeal.

8.Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the first respondent - Transport Corporation and perused the entire materials on record.

9.It is the contention of the appellant that due to the accident, he suffered grievous injuries and fracture. P.W.2/Doctor assessed the disability of the appellant as 23%. The appellant contended that at the time of accident, he was aged 23 years and working as a electrician cum plumber and was earning a sum of Rs.15,000/- per month. The appellant has not

produced any material evidence to prove the same. In the absence of material evidence, the Tribunal fixed a sum of Rs.5,000/- as monthly income of the appellant. The accident occurred in the year 2015. The monthly income of the appellant fixed by the Tribunal is meagre and a sum of Rs.7,500/- is fixed by this Court as monthly income of the appellant. Thus, applying the multiplier '18', the amount awarded by the Tribunal towards disability is modified to Rs.3,72,600/- [Rs.7,500/- x 12 x 18 x 23/100]. The amount awarded by the Tribunal under other heads are just and reasonable and hence, they are confirmed. The appellant has not produced any document to prove that he requires future medical treatment. In such circumstances, he is not entitled to any compensation for future medical expenses. 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	2,48,400/-	3,76,600/-	enhanced
2.	Pain and sufferings	20,000/-	20,000/-	confirmed
3.	Extra nourishment	20,000/-	20,000/-	confirmed
4.	Transportation & Attender charges	20,000/-	20,000/-	confirmed
5.	Medical Bills	31,061/-	31,061/-	confirmed
6.	Loss of amenities	20,000/-	20,000/-	confirmed
	Total	Rs.3,59,461/-	Rs.4,83,661/-	enhanced by Rs.1,24,200/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.3,59,461/- is hereby enhanced to Rs.4,83,661/- 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 the Court fee, if any on the enhanced amount of compensation. The first 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 six 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 Special Subordinate Judge No.I,
Motor Accident Claims Tribunal,
Salem.

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

+1cc Mr.D.Venkatachalam, Advocate, sr no.903

+2ccs to Mr.C.Paraneedharan, Advocate, sr no.352

C.M.A.No.4830 of 2019

PA (CO)
RMP (21/01/2021)

The seal of the High Court of Judicature Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital on top. Below the gopuram is a red lion capital with a wheel in the center. The entire emblem is set against a background of green and white stripes. The words "HIGH COURT OF JUDICATURE MADRAS" are written in a green circle around the emblem. Below the emblem, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

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