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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2021

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.1334 of 2016

Nethaji Subash Chandrabose

...Appellant / Claimant

versus

The Managing Director,
Tamil Nadu State Transport Corporation
(VPM) Ltd.,
Villupuram.

...Respondent / Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 08.03.2016 passed in M.C.O.P. No.2770 of 2011 on the file of Motor Accident Claims Tribunal cum III Judge, Small Causes Court, Chennai.

For Appellant : Mr.Amar D. Pandiya

For Respondent : Mr.K.J.Shivakumar

JUDGMENT

This appeal has been filed by the claimant seeking enhancement of compensation under the impugned award dated 08.03.2016 passed by the learned III Judge, Motor Accident Claims Tribunal, Small Causes Court, Chennai in MCOP No.2770 of 2011.

2. The Tribunal under the impugned award directed the respondent to pay the appellant / claimant a compensation of Rs.4,33,200/- together with interests and costs as detailed below :-

Heads	Amount awarded by the Tribunal (Rs.)
Pecuniary Loss:	
Loss of income	36,000/-
Attender charges	1,300/-
Transport to hospital	2,500/-
Extra nourishment	10,000/-



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Heads	Amount awarded by the Tribunal (Rs.)
Medical bills	63,000/-
Future medical charges	25,000/-
Non pecuniary loss	
Damages for mental shock and agony	10,000/-
Pain and suffering	30,000/-
Loss of earning power	2,30,400/-
Loss of amenities	25,000/-
Total	4,33,200/-

3. The appellant / claimant unsatisfied with the quantum of compensation awarded by the Tribunal under the impugned award has filed this appeal seeking for enhancement.

4. Heard Mr.Amar D. Pandiya, learned counsel for the appellant and Mr.K.J.Shivakumar, learned counsel for the respondent / Transport Corporation.

5. This Court has perused and examined the impugned award before the Tribunal.

6. The appellant / claimant has sustained the following injuries as a result of an accident caused by a bus owned by the Transport Corporation on 08.07.2011 :

Fracture in right and left Tibia junction of Middle third and distal third, right ankle fracture and multiple injuries all over the body of the appellant / claimant.

7. The appellant / claimant was hospitalised for a period of 6 days. He was a Carpenter by profession and was aged 31 years at the time of the accident. The nature of injuries sustained by the appellant / claimant have not been disputed by the respondent / Transport Corporation before the Tribunal. The Tribunal assessed the whole body disability of the appellant / claimant at 10%, which in the considered view of this Court is low. The Doctor (PW2) has assessed the whole body disability of the appellant /claimant at 30%, but the Tribunal has reduced the same to 10%, which is not a correct assessment. Accordingly, this Court after considering the nature of the injuries sustained by the appellant / claimant is of the considered view that the whole body disability of the appellant / claimant will have to be enhanced to 15% instead of 10% fixed by the Tribunal. Accordingly, this Court fixes the whole body disability of the appellant / claimant at 15% for the



purpose of assessing the loss of earning power of the appellant / claimant. Accordingly, in view of the fixation of the whole body disability of the appellant / claimant at 15% by this Court, the loss of earning power of the appellant / claimant is enhanced to Rs.3,45,600/- (15% of Rs.12,000/- = Rs.1,800/- x 12 x 16) by this Court instead of Rs.2,30,400/- as fixed by this Tribunal.

8. The Tribunal has awarded a compensation of Rs.36,000/- towards Loss of income; Rs.1,300/- towards Attender charges; Rs.2,500/- towards Transport to Hospital; Rs.10,000/- towards Extra nourishment; Rs.63,000/- towards medical bills; Rs.25,000/- towards future medical charges; Rs.30,000/- towards pain and suffering and Rs.25,000/- towards loss of amenities to the appellant / claimant for the injuries sustained by him, which in the considered view of this Court is a just compensation and there is no scope for any interference.

9. The nature of the injuries sustained by the appellant does not deserve any payment of compensation towards Damages for mental shock and agony. However, the Tribunal awarded Rs.10,000/- as compensation towards Damages for mental shock and agony and since it is an erroneous assessment, the same is set aside by this Court.

10. For the foregoing reasons, the award of the Tribunal is hereby modified in the following manner :

Heads	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
Pecuniary Loss:		
Loss of income	36,000/-	36,000/-
Attender charges	1,300/-	1,300/-
Transport to hospital	2,500/-	2,500/-
Extra nourishment	10,000/-	10,000/-
Medical bills	63,000/-	63,000/-
Future medical charges	25,000/-	25,000/-
Non pecuniary loss		
Damages for mental shock and agony	10,000/-	-
Pain and suffering	30,000/-	30,000/-
Loss of earning power	2,30,400/-	3,45,600/-
Loss of amenities	25,000/-	25,000/-
Total	4,33,200/-	5,38,400/-



11. In the result, the appeal filed by the appellant / claimant, stands partly allowed by enhancing the compensation from Rs.4,33,200/- to Rs.5,38,400/- as indicated above. No costs.

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12. The respondent / Transport Corporation is directed to deposit the entire award amount as assessed by this Court together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of M.C.O.P. No.2770 of 2011 on the file of Motor Accident Claims Tribunal cum III Judge, Small Causes Court, Chennai, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellant /claimant, through RTGS, within a period of two weeks thereafter. The requisite Court fee, if any has to be paid by the appellant/claimant before receiving the copy of this Judgment.

Sd/-
Assistant Registrar (CS-VII)

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Sub Assistant Registrar

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To :

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

2.The Section Officer,
V.R. section,
High Court, Madras - 104.

+1cc to Mr.S.Ravikumar, Advocate SR.No.26602

+1cc to Mr.K.J.Sivakumar, Advocate SR.No.26916

C.M.A. No.1334 of 2016

NMI(CO)
RVM(28/09/2021)