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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.627 of 2021

Panchalam

..Appellant/Petitioner

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
(State Express Transport Corporation),
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 08.08.2019 made in M.C.O.P.No.121 of 2003 on the file of the Motor Accident Claims Tribunal, Additional District Court (FTC), Kancheepuram.

For Appellant : Mr.M.Sivakumar
for Mr.C.Prabakaran

For Respondent : Mr.K.J.Sivakumar

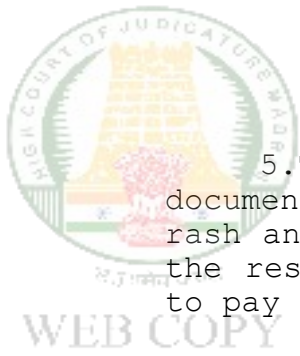
J U D G M E N T

The matter is heard through "Video Conferencing/Hybrid" mode.

2.This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 08.08.2019 made in M.C.O.P.No.121 of 2003 on the file of the Motor Accident Claims Tribunal, Additional District Court (FTC), Kancheepuram.

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

4.The appellant is the claimant in M.C.O.P.No.121 of 2003 on the file of the Motor Accident Claims Tribunal, Additional District Court (FTC), Kancheepuram. He filed the above said claim petition, claiming a sum of Rs.7,00,000/- as compensation for the injuries sustained by him in the accident that took place on 09.05.2002.



5.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 to the respondent and directed the respondent-Transport Corporation to pay a sum of Rs.25,000/- as compensation to the appellant.

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

7.The learned counsel appearing for the appellant contended that in the accident he sustained grievous injury in rib bone and he was admitted at Government Head Quarters Hospital, Kancheepuram, incurred huge expenses and he slowly recovered from the illness. Therefore, the Tribunal ought to have awarded separate amount towards permanent disability. The appellant has taken treatment in the hospital as inpatient for a week and thereafter as outpatient for three months. But the Tribunal has not awarded any amount towards transportation, extra nourishment, pain and sufferings and attendant charges. The lumpsum amount of Rs.25,000/- awarded by the Tribunal as compensation to the appellant is meagre and prayed for enhancement of compensation.

8.Per contra, the learned counsel appearing for the respondent-Transport Corporation contended that the injuries sustained by the appellant in the accident are only simple in nature and the Doctor from Government Head Quarters Hospital, Kancheepuram examined the appellant and issued the disability certificate as 'nil'. Therefore, he is not entitled to any amount towards transportation, extra nourishment, attendant charges and pain and sufferings. The Tribunal considering the entire materials on record, has awarded a sum of Rs.25,000/- as compensation to the appellant, which is not meagre for the simple injuries sustained by him. The appellant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

9.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.

10.From the materials available on record, it is seen that it is the contention of the appellant that in the accident he sustained grievous injury in rib bone. He has taken treatment at Government Head Quarters Hospital, Kancheepuram for the injuries sustained by him in the accident that occurred on 09.05.2002. Subsequently, he has continued his treatment at Sri Sai Hospital, Thirumulaivoyal, Chennai and spent considerable amount towards medical expenses and filed claim petition claiming compensation against the respondent. The Tribunal considering the fact that



the Doctor from Government Head Quarters Hospital, Kancheepuram has issued the disability certificate of the appellant as 'nil' and the injuries sustained by him are only simple in nature, awarded a lumpsum amount of Rs.25,000/- as compensation to the appellant. Considering the entire materials on record, the lumpsum amount of Rs.25,000/- awarded by the Tribunal is meagre. The appellant has taken treatment as inpatient at Government Head Quarters Hospital, Kancheepuram from 09.05.2002 to 13.05.2002 and produced Exs.P7 to P10, P28, P29/Medical Bills to show that he incurred a sum of Rs.9,742/- towards medical expenses. Considering the nature of injuries, period of treatment taken, a further sum of Rs.15,000/- is awarded to the appellant towards compensation. 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.	Lumpsum amount	25,000/-	40,000/-	Enhanced
	Total	Rs.25,000/-	Rs.40,000/-	Enhanced by Rs.15,000/-

11.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.25,000/- is hereby enhanced to Rs.40,000/- 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 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.121 of 2003 on the file of the Motor Accident Claims Tribunal, Additional District Court (FTC), Kancheepuram. On such deposit, the appellant is permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. No costs.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

krk



To

1. The Additional District Judge (FTC),
Motor Accident Claims Tribunal,
Kancheepuram.

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

+1cc to Mr.K.J.Sivakumar, Advocate, S.R.No.15688

+1cc to Mr.C.Prabakaran, Advocate, S.R.No.15670

C.M.A.No.627 of 2021

SVI (CO)
RGA (22/10/2021)