



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1126 of 2021

Moorthy

...Appellant/Petitioner

Vs.

MD, Tamilnadu State Transport Corporation,
(VPM-Division I) Limited,
No.3/137, Salamedu Vazhudhareddy Post,
Villupuram - 605 502.

...Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 13.08.2020 made in M.C.O.P. No.4132 of 2014, on the file of the Principal District Court, (Motor Accidents Claims Tribunal), Cuddalore.

For Appellant : Mrs.V.Ramya V Rao
for M/s.A.N.Viswanatha Rao

For Respondent : Mr.K.J.Sivakumar

J U D G M E N T

(The matter is heard through "Video Conferencing/Hybrid mode")

This appeal has been filed for enhancement of the compensation granted by the Tribunal in the award dated 13.08.2020 made in M.C.O.P. No.4132 of 2014, on the file of the Principal District Court, (Motor Accidents Claims Tribunal), Cuddalore.

2.By consent of the learned counsel appearing for the appellant as well as the respondent, the appeal is taken up for final disposal at the admission stage itself.

3.The appellant/claimant filed M.C.O.P.No.4132 of 2014, on the file of the Principal District Court, (Motor Accidents Claims Tribunal), Cuddalore, claiming a sum of Rs.15,00,000/- as compensation for the injuries sustained by him in the accident that took place on 09.09.2014.



4.The Tribunal considering the pleadings, oral and documentary evidence, held that accident occurred only due to rash and negligent driving by driver of Bus and directed the respondent-Transport Corporation to pay a sum of Rs.3,67,000/- as compensation to the appellant.

5.Not being satisfied with the amounts awarded by the Tribunal in the award dated 13.08.2020 made in M.C.O.P. No.4132 of 2014, the appellant has come out with the present appeal.

6.The learned counsel appearing for the appellant contended that in the accident, the appellant suffered both bone fracture and multiple ulcers and has taken treatment as in-patient at Hospital in four different spells and spent a sum of Rs.1,91,000/- towards medical expenses. The Medical Board at Cuddalore examined the appellant and certified that the appellant suffered 25% physical impairment. The Tribunal awarded only a meagre amount of Rs.75,000/- towards disability at the rate of Rs.3,000/- per percentage, instead of granting a sum of Rs.5,000/- per percentage, considering the year of accident. The lump sum compensation granted by the Tribunal towards pain and sufferings, loss of amenities, attendant charges, extra nourishment and travel expenses is meagre and prayed for enhancement of the compensation.

7.Per contra, the learned counsel appearing for the respondent-Transport Corporation submitted that the appellant has not filed any document to prove his avocation and income. In the absence of any proof by the appellant with regard to loss of income during treatment period, the Tribunal rightly did not award any amount towards loss of income. Considering the nature of injuries suffered by the appellant, the compensation awarded by the Tribunal is not meagre. The appellant has not made out any case for enhancement of the compensation and prayed for dismissal of the appeal.

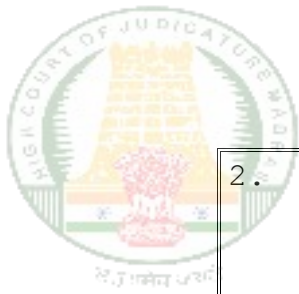
8.Heard the learned counsel appearing for the appellant as well as the respondent-Transport Corporation and perused the materials available on record.

9.It is the case of the appellant that in the accident, he suffered severe injuries, his leg got infected, the wounds have not healed, both bone fracture is not united and there are multiple ulcers. The appellant has taken treatment as in-patient at two different Hospitals in four different spells viz., from 10.09.2014 to 18.09.2014, from 19.09.2014 to 16.10.2014, from 22.12.2014 to 05.01.2015 and from 02.02.2015 to 27.02.2015, totally for a period of 76 days. He was referred to the Medical



Board. The Medical Board, Cuddalore examined the appellant and certified that the appellant suffered 25% disability. The Tribunal awarded a sum of Rs.75,000/- towards disability at the rate of Rs.3,000/- per percentage for 25% disability. This Court by the judgment reported in 2020 (1) TN MAC 617 [M. Chinnathambi Vs. S.Deepa and another], fixed a sum of Rs.4,000/- per percentage of disability for the accident occurred in the year 2014 & 2015 and a sum of Rs.5,000/- per percentage of disability for the accident occurred from the year 2016 onwards, due to raise in cost of living. In the present case, the accident is of the year 2014. In view of the same, a sum of Rs.4,000/- is awarded per percentage of disability. Hence, the amount awarded by the Tribunal towards disability is enhanced to Rs.1,00,000/- (Rs.4,000/- x 25%), at the rate of Rs.4,000/- per percentage for 25% disability. Considering the nature of injuries, period of treatment taken by the appellant, the consolidated sum of Rs.1,00,000/- awarded by the Tribunal towards pain and suffering, loss of amenities, attendant charges, travel expenses and extra nourishment is meagre. Hence, the same is enhanced to Rs.35,000/- each towards pain and suffering and loss of amenities, Rs.50,000/- each towards attendant charges and extra nourishment and Rs.10,000/- towards travel expenses. The Tribunal failed to award any amount towards damage to clothes. Hence, a sum of Rs.2,000/- is awarded towards damage to clothes. At the time of accident, the appellant was working as a Fisherman and was earning a sum of Rs.15,000/- per month. He did not file any document to prove the same. In the absence of any evidence, considering the year of accident and the nature of work done by the appellant, a sum of Rs.9,000/- per month is fixed as the notional income of the appellant. Due to the injuries sustained in the accident, the appellant would not have worked atleast for a period of four months. The Tribunal failed to award any amount towards loss of income. Hence, a sum of Rs.36,000/- [Rs.9,000/- x 4 months] is awarded towards loss of income. Considering the nature of injuries and disability, this Court is of the considered view that the amount awarded by the Tribunal towards medical expenses is just and reasonable and hence, the same is hereby 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	75,000/-	1,00,000/-	Enhanced



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2.	Pain and sufferings, loss of amenities, attendant charges, travel expenses and extra nourishment	1,00,000/-	35,000/- 35,000/- 50,000/- 10,000/- 50,000/-	Enhanced
3.	Medical expenses	1,91,993/-	1,91,993/-	Confirmed
4.	Damage to clothes	-	2,000/-	Granted
5.	Loss of income	-	36,000/-	Granted
	Total	3,66,993/- rounded off to 3,67,000/-	5,09,993/- rounded off to 5,10,000/-	Enhanced by Rs.1,43,000 /-

10. In the result, the appeal is partly allowed and the amount awarded by the Tribunal at Rs.3,67,000/- is enhanced to Rs.5,10,000/- together with interest at the rate of 8% per annum from the date of petition till the date of deposit. The respondent is directed to deposit the award amount, now determined by this Court, along with interest and costs, 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.4132 of 2014. On such deposit, the appellant is permitted to withdraw the award amount, now determined by this Court, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. No costs.

Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar

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To

1. The Principal District Judge,
(Motor Accident Claims Tribunal),
Cuddalore.

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

+1cc to Mr.K.J.Sivakumar, Advocate, S.R.No.19473

C.M.A.No.1126 of 2021

VBM[co]
NSK 29/10/2021