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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2543 of 2019

R.Vijay

... Appellant/Petitioner

Vs

Metropolitan Transport Corporation Ltd.

Represented by its Managing Director

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 21.12.2018 made in M.C.O.P.No.6006 of 2015 on the file of Motor Accident Claims Tribunal, Principal Special Court, Special Court under E.C. and NDPS Act, Chennai-600 104.

For Appellant : Ms.P.T.Saleem Fathima

For Respondent : Mr.S.Sivakumar

J U D G M E N T

This matter is heard through "Video Conferencing".

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 21.12.2018 made in M.C.O.P.No.6006 of 2015 on the file of Motor Accident Claims Tribunal, Principal Special Court, Special Court under E.C. and NDPS Act, Chennai.

2.The appellant is the claimant in M.C.O.P.No.6006 of 2015 on the file of Motor Accident Claims Tribunal, Principal Special Court, Special Court under E.C. and NDPS Act, Chennai. He filed the said claim petition claiming a sum of Rs.46,00,000/- as compensation for the injuries sustained by him in the accident that took place on 29.06.2015.

3.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.3,96,000/- as compensation to the appellant.

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 in the accident, the appellant suffered multiple compound, comminuted and major degloving injury in left neck of thigh bone at the hip and ball socket. The appellant examined the Doctor as P.W.2 and P.W.2/Doctor after examining the appellant certified that the appellant suffered 30% disability. The Tribunal erred in awarding only a sum of Rs.90,000/- towards disability. The appellant has taken treatment as in-patient in Government K.M.C.Hospital, Chennai, from 29.06.2015 to 08.08.2015 for 41 days and continued his treatment as out-patient for more than six months. Though the appellant has taken treatment in Government Hospital, he would have spent some amount towards medical expenses. The Tribunal has not awarded any compensation towards medical expenses. The appellant was aged 18 years at the time of accident and he was a college going student. The Tribunal ought to have awarded compensation towards loss of marital prospects. The amounts awarded by the Tribunal towards transportation, loss of earning power, attendant charges and loss of amenities are meagre and prayed for enhancement of compensation.

6. Per contra, the learned counsel appearing for the respondent/Transport Corporation contended that the Tribunal after considering all the materials on record, awarded compensation under different heads, which are not meagre. The appellant has not made out any case for enhancement of compensation 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 available on record.

8. From the materials on records, it is seen that in the accident, the appellant suffered fracture in left leg thigh bone and multiple injuries all over the body. The appellant examined the Doctor as P.W.2, who examined the appellant and certified that the appellant suffered 30% disability. The appellant was a student at the time of accident. P.W.2/Doctor deposed that the appellant would have difficulties in doing any work. P.W.2/Doctor has not deposed that the appellant suffered functional disability and lost his earning power. In the absence of any evidence with regard to loss of earning power, the Tribunal granted a sum of Rs.2,00,000/- towards loss of earning power. In addition to that,



the Tribunal has awarded a sum of Rs.90,000/- towards disability. In view of the same, the appellant is not entitled to any enhancement of compensation for disability.

8(i) According to the appellant, he has taken treatment as in-patient in Government K.M.C.Hospital, from 29.06.2015 to 08.08.2015 for 41 days. The amounts granted by the Tribunal towards transportation and extra nourishment are meagre and the same are hereby enhanced to Rs.10,000/- each. Though the appellant has taken treatment in Government Hospital, he would have spent some amount towards medical expenses. The Tribunal has not awarded any compensation towards medical expenses. Hence, a sum of Rs.10,000/- is awarded towards medical expenses. P.W.2/Doctor deposed that due to fractures, plates and screws were fixed. Hence, a sum of Rs.10,000/- is awarded towards future medical expenses. Considering the evidence of P.W.2/Doctor, disability and age of the appellant, a sum of Rs.50,000/- is awarded towards loss of marital prospects. The amounts awarded by the Tribunal under all other heads are just and reasonable and hence, the same are 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 or reduced
1.	Transportation	5,000	10,000	Enhanced
2.	Extra nourishment	5,000	10,000	Enhanced
3.	Damage to clothes	1,000	1,000	Confirmed
4.	Mental agony and loss of income to family members	20,000	20,000	Confirmed
5.	Loss of amenities	25,000	25,000	Confirmed
6.	Pain and suffering	50,000	50,000	Confirmed
7.	Permanent disability	90,000	90,000	Confirmed



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8.	Loss of earning power	2,00,000	2,00,000	Confirmed
9.	Medical expenses	-	10,000	Granted
10.	Loss of marital prospects	-	50,000	Granted
11.	Future medical expenses	-	10,000	Granted
	Total	3,96,000	4,76,000	Enhanced by Rs.80,000/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.3,96,000/- is hereby enhanced to Rs.4,76,000/- 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. 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. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

The Principal Special Judge,
Motor Accident Claims Tribunal,
Special Court under E.C. and NDPS Act,
Chennai-104.



Copy to

The Section Officer,
V.R.Section,
High Court, Chennai.

+1cc to M/s.M.Swamikkannu, Advocate Sr.408

C.M.A.No.2543 of 2019

rsi[co]
srg 29/07/2021