



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2021

CORAM:

THE HONOURABLE TMT.JUSTICE S.KANNAMMAL

C.M.A.No.1340 of 2020

R.Sukumar

..Appellant/Petitioner

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation
(Villupuram - Division -I),
3/37, Salamedu, Vazhuthareddy,
Villupuram - 605 602.

..Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 15.07.2020 made in M.C.O.P.No.1116 of 2015 on the file of the Motor Accident Claims Tribunal, Cuddalore.

For Appellant :Mrs.Ramya V.Rao

For Respondent:Mr.T.S.K.Sathishkumar

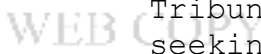
J U D G M E N T

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 15.07.2020 made in M.C.O.P.No.1116 of 2015 on the file of the Motor Accident Claims Tribunal, Cuddalore.

3.The appellant is the claimant in M.C.O.P.No.1116 of 2015 on the file of the Motor Accident Claims Tribunal, Cuddalore. He filed the above said claim petition, claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by him in the accident that took place on 06.02.2015.

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 bus belonging to the respondent/Transport Corporation and directed the



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

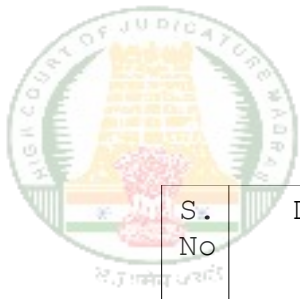
7. Per contra, the learned counsel appearing for the respondent-Transport Corporation contended that the Tribunal accepted the disability certificate issued by the Medical Board and awarded a sum of Rs.45,000/- for 15% of disability and the same is not meagre. The appellant has not proved that he suffered functional disability. The appellant has not produced any material evidence to prove his avocation and income. In the absence of any material evidence with regard to avocation and income, the Tribunal fixed a sum of Rs.7,500/- as monthly income of the appellant and awarded compensation towards loss of income for four months, which is not meagre. The Tribunal considering the entire materials on record, has awarded a sum of Rs.1,52,000/- as compensation to the appellant under different heads and the same is not meagre. The appellant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

<https://hcservices.ecourts.gov.in/hcservices/>



9. From the materials available on record, it is seen that in the accident the appellant has suffered left foot crush injury, near total amputation of left 2nd toe at PIP level and multiple injuries all over the body. The Medical Board examined the appellant and certified that the appellant suffered 15% disability. The disability certificate issued by the Medical Board was marked as Ex.C1. The disability assessed by the Medical Board is proper but a sum of Rs.3,000/- per percentage of disability awarded by the Tribunal is meagre. The accident is of the year 2015. A reasonable amount of Rs.4,000/- is awarded per percentage of disability. Thus, the compensation awarded by the Tribunal towards disability is modified to Rs.60,000/- (Rs.4,000/- X 15% disability). The appellant has not proved that he suffered functional disability and lost his earning capacity. Hence, he is not entitled to any amount towards loss of earning capacity by adopting multiplier method.

10. It is the contention of the appellant that at the time of accident, he was working as a Mason and was earning a sum of Rs.15,000/- per month. He failed to prove the said contention. In the absence of any material evidence with regard to avocation and income, the Tribunal following the judgment of the Hon'ble Apex Court reported in "2015 (2) TANMAC Page 159 (Pavalakodi and others Vs. TNSTC., Villupuram Limited and 2014 (1) TNMAC Page 459 (Syed Sadiq Etc., Vs. Divisional Manager)" fixed a sum of Rs.7,500/- as monthly income of the appellant and awarded a sum of Rs.30,000/- towards loss of income for a period of four months. The accident is of the year 2015 and the monthly income fixed by the Tribunal is meagre. The cost of living has increased enormously and salary of even unskilled workers has increased substantially. Hence, a sum of Rs.10,000/- per month is fixed as monthly income of the appellant. Thus, the compensation awarded by the Tribunal towards loss of income is modified to Rs.40,000/- (Rs.10,000/- X 4) towards loss of income for four months. The appellant has taken treatment at JIPMER Hospital, Puducherry as inpatient from 07.02.2015 to 19.02.2015 for a period of thirteen (13) days. Considering the nature of injuries and period of treatment taken by the appellant, the amounts awarded by the Tribunal towards loss of amenities and attendant charges are meagre and the same are enhanced to Rs.50,000/- and Rs.10,000/- respectively. The amount awarded by the Tribunal towards pain & sufferings, extra nourishment, transportation expenses and future medical expenses are just and reasonable and hence, the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:



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S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Disability	45,000/-	60,000/-	Enhanced
2.	Pain and sufferings	30,000/-	30,000/-	Confirmed
3.	Loss of amenities	20,000/-	50,000/-	Enhanced
4.	Extra nourishment	10,000/-	10,000/-	Confirmed
5.	Attendant charges	2,000/-	10,000/-	Enhanced
6.	Transportation charges	5,000/-	5,000/-	Confirmed
7.	Loss of income	30,000/-	40,000/-	Enhanced
8.	Medical Expenses	10,000/-	10,000/-	Confirmed
	Total	Rs.1,52,000/-	Rs.2,15,000/-	Enhanced by Rs.63,000/-

11. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,52,000/- is hereby enhanced to Rs.2,15,000/- 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 six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.1116 of 2015 on the file of the Motor Accident Claims Tribunal, Cuddalore. 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

// True Copy//

Sub Assistant Registrar



To

1.The I Additional Subordinate Judge,
Motor Accident Claims Tribunal,
Cuddalore.

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

+1 CC to M/s. Ramya V. Rao, Advocate sr 34857.

C.M.A.No.1340 of 2020

SMI (CO)
SP(26/11/2021)