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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.M.A.No.1225 of 2014

Ponnusamy

... Appellant/Claimant

Versus

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Bharathipuram,
Dharmapuri.

... Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the order and decree dated 18.11.2011 made in M.C.O.P.No.371 of 2007 on the file of the Motor Vehicle Claims Tribunal, Principal Subordinate Judge, Krishnagiri.

For Appellant : Mr.K.Prasanna
For M.Sriram

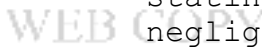
For Respondent : Mr.D.Raghu

J U D G M E N T

This appeal is laid as against the judgment and decree dated 18.11.2011 passed by the learned the Principal Subordinate Judge, Motor Vehicle Claims Tribunal, Krishnagiri, in M.C.O.P.No.371 of 2007, thereby awarded the compensation to the tune of Rs.1,06,100/-

2. For the sake of convenience, the parties are referred to hereunder according to their litigative status before the Tribunal.

3. The case of the claimant is that on 09.09.2006, when he was traveling in a bus, the driver had driven the bus in rash and negligent manner as such it was capsized. Due to the accident, the claimant sustained grievous injury and also laceration wound all over the body. Therefore he was admitted to the Government Hospital, Krishnagiri as inpatient. Thereafter he was taking treatment in the private hospital in periodical



4. Resisting the same, the respondent filed counter stating that the accident was not taken place on the rash and negligent driving of the driver. The accident took place only for the reason that the tyre of the bus busted due to the worse road, as such the respondent is not at all liable to pay any compensation and sought for dismissal of the claim petition.

6. The learned counsel appearing for the appellant/claimant submits that the claimant sustained fracture on his right humerus and other laceration wound all over the body. Due to the fracture, he could not able to continue his avocation as milk vendor. His disablement was assessed at 40%. Therefore, the Tribunal ought to have applied multiplier method for calculating the compensation. He further submitted that the Tribunal failed to award any compensation towards loss of income, loss of amenities and awarded very meager compensation under the heads of pain and suffering, transportation and attender charges. Therefore, he prayed for enhancement of the award amount.

8. Heard Mr.K.Prasanna, learned counsel appearing for the appellant/claimant and Mr.D.Raghu, learned counsel appearing for the respondent.

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undergone surgery and due to which the movement of his right hand reduced and the disability was assessed at 40%. The disability certificate was marked as Ex.A.5 and X-ray marked as Ex.A.6. Considering the same the Tribunal rightly awarded a sum of Rs.2,000/- per percentage under the head of permanent disability.

10. The claimant was admitted as inpatient and had treatment for long period as such the Tribunal ought to have awarded more amount under the head of pain and suffering. The Tribunal failed to award any amount under the heads of loss of income and amenities. The claimant was admitted as inpatient and had treatment for more than three months. Therefore, the Tribunal ought to have awarded compensation under the head of loss of income. More over, the interest on the award amount has to be granted at 7.5% instead of 6%.

11. Accordingly the compensation awarded by the Tribunal stands modified as under :-

Sl.No	Heads	Awarded by the Tribunal	Awarded by this Court
1	Permanent disability	80,000	80,000
2	Pain and suffering	5,000	20,000
3	Transportation charges	5,000	5,000
4	Nutrition	5,000	10,000
5	Attender charges	5,000	10,000
6	Medical expenses	6,100	6,100
7	Loss of income	Nil	10,000
8	Loss of amenities	Nil	10,000
	Total	1,06,100	1,51,100

12. In the result the Civil Miscellaneous Appeal is partly allowed as follows:-

(i) The award passed by the Tribunal is enhanced from Rs.1,06,100/- to Rs.1,51,100/-.

(ii) The award amount will carry the interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit.

(iii) The respondent is directed to deposit the award amount, less the amount, if any, already deposited, along with accrued interest within a period of six weeks from the date of receipt of copy of this Judgment.

(iv) On such deposit, the claimant is permitted to withdraw the amount awarded by filing proper application before the Tribunal.



(v) The appellant/claimant is not entitled to any interest for the condoned delay (default) period, if any.

(vi) The claimant shall pay requisite Court fee before the receipt of the copy of the judgment for the enhanced compensation.

(vii) There shall be no order as to costs.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

rts

To

1.The Motor Vehicle Claims Tribunal,
Principal Subordinate Judge,
Krishnagiri.

Copy to:

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

+1cc to Mr.D.Raghu, Advocate, S.R.No.24419

C.M.A.No.1225 of 2014

NMI (CO)
CB(04/10/2021)