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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 17.06.2021

Coram :

THE HONOURABLE MRS. JUSTICE S.KANNAMMAL

Civil Miscellaneous Appeal No.2083 of 2014

C.Rajendran

...Appellant/Petitioner

Versus

Metropolitan Transport Corporation Ltd.,
represented by its Managing Director
Pallavan Salai,
Chennai - 600 002.

...Respondent/Respondent

Civil Miscellaneous Appeal filed under Section 173 of The Motor Vehicles Act, 1988 against the Order and Decreeal order dated 24.01.2014 made in MACTOP No.2498 of 2011 on the file of the II Judge, Motor Accident Claims Tribunal (Court of Small Causes), Chennai.

For Appellant : M/s.P.T.Salim Fathima

For Respondents : Mr.K.Moorthy

JUDGMENT

This appeal has been filed by the appellant/claimant against the quantum of compensation awarded by the Tribunal in and by the award dated 24.01.2014 made in MACTOP No.2498 of 2011 on the file of the II Judge, Motor Accident Claims Tribunal (Court of Small Causes), Chennai.

2. The case of the appellant/claimant before the Tribunal is that on 01.07.2011 at 1.10p.m, when the appellant/claimant was crossing Anna Salai from West to East direction at Spencer Junction, the respondent's bus bearing registration No.TN-01-N-4101 came from North to South direction in Anna Salai in a rash and negligent manner, dashed against the appellant and thereby, the appellant sustained grievous injuries and hence, the appellant/claimant claimed a sum of Rs.14,00,000/- as compensation.

3. The claim petition filed by the claimant was resisted by the respondent/Transport Corporation disputing the manner of accident and age, occupation and income of the claimant and



nature of injuries sustained by the claimant and also disputed the quantum of compensation sought by the claimant.

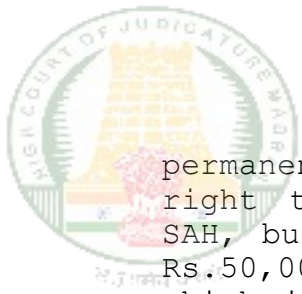
4. In order to prove the claim, on the side of the claimant, the claimant was examined as PW.1 and Dr.Amarnath R Sowlee was examined as PW.2. Exs.P1 to P7 were marked on the side of claimant. On the side of respondent/Transport Corporation, the driver of the bus was examined as RW.1, but no documentary evidence was adduced.

5. The Tribunal, after analysing the entire evidence available on record, came to the conclusion that the accident was due to the rash and negligent driving of the driver of the bus belonging to the respondent Transport Corporation and passed an award for a sum of Rs.2,51,000/-, under the following heads:-

Sl.N o	Head under which the amount is awarded	Amount awarded by the Tribunal (in Rs.)
1	Loss of income for 6 months	60,000
2	Transportation	5,000
3	Extra nourishment	10,000
4	Damage to clothes	1,000
5	Attender Charges, Mental Agony, Loss of Amenities of life and Loss of Expectation of life	50,000
6	Pain and suffering	75,000
7	Disability of 25% at the rate of Rs.2000/- per disability	50,000
	Total	2,51,000/-

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

7. The learned counsel for the appellant contended that in the accident, the appellant sustained multifarious fractures in the skull leading to blood clotting and oozing of blood through ear leading to impairment of movements in right hand and right leg and and other injuries all over the body. The learned counsel further contended that P.W.2-Doctor assessed 30% partial



permanent disability to claimant considering the fracture of right temporal bone with fracture Haemotrn and Left parietal SAH, but the Tribunal had taken only 25% disability and awarded Rs.50,000/- by taking Rs.2,000/- per percentage of disability, which is very meagre and atleast Rs.4,000/- is to be taken per percentage of disability. It is further contended that the appellant was a two wheeler mechanic and due to the accident, the appellant has been disabled from continuing his avocation. It is also contended that the Tribunal has awarded a very meagre sum under the other heads also. Hence, the learned counsel prayed for enhancement of compensation.

8. Per contra, learned counsel for the respondent Transport Corporation would submit that the Tribunal, after considering the nature of injuries, disability and treatment taken by the claimant and also considering the age of the claimant, awarded a correct compensation and the same requires no interference by this Court.

9. The disability suffered by the appellant was fixed at 30% by PW.2-Doctor. Considering the fact that the PW-2 Doctor, who gave disability certificate, has not given treatment to the appellant/claimant, the Tribunal has taken only 25% disability, which in the considered opinion of this Court is correct. The Tribunal has awarded Rs.50,000/- towards disability by fixing Rs.2,000/- per percentage of disability, which in the opinion of this Court is meagre. Considering the nature of fracture in the right temporal bone with fracture Haemotrn and Left parietal SAH, this Court is of the view that Rs.3,000/- per percentage of disability is fair and reasonable. Accordingly, the disability compensation is fixed by this Court at Rs.75,000/- (25% x Rs.3000).

10. Considering the nature of injuries and the disability, this Court is of the view that the compensation awarded by the Tribunal under other heads, viz., loss of income for 6 months, transportation, extra nourishment, damage to clothes, Attender Charges, Mental Agony, Loss of Amenities of life and Loss of Expectation of life, pain and suffering, are just and reasonable and hence, the same are hereby confirmed.

11. Except the enhancement of compensation under the head 'disability', the compensation awarded by the Tribunal under the other heads remain unaltered. Accordingly, the award passed by the Tribunal, in comparison with the amounts now awarded by this Court is tabulated hereunder:



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Sl.No	Head under which the amount is awarded	Amount awarded by the Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1	Loss of income for 6 months	60,000	60,000
2	Transportation	5,000	5,000
3	Extra nourishment	10,000	10,000
4	Damage to clothes	1,000	1,000
5	Attender Charges, Mental Agony, Loss of Amenities of life and Loss of Expectation of life	50,000	50,000
6	Pain and suffering	75,000	75,000
7	Disability of 25%	50,000	75,000
	Total	2,51,000	2,76,000

12. In the result, this Civil Miscellaneous Appeal is partly allowed, enhancing the amount of compensation awarded by the Tribunal from Rs.2,51,000/- to Rs.2,76,000/- (Rupees Two Lakhs and Seventy Six Thousand only), which carries interest at 7.5% per annum from the date of claim petition till the date of deposit, except for the default period, if any. No costs in this CMA.

13. The respondent/Transport Corporation is directed to deposit the award amount, as assessed by this Court, together with interest at 7.5% p.a., from the date of MCOP till the date of realisation with costs of MCOP, except for the default period if any, less the amount already deposited, to the credit of MACTOP No.2498 of 2011 on the file of the II Judge, Motor Accident Claims Tribunal (Court of Small Causes), Chennai, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the claimant/appellant herein, through NEFT/RTGS, within a period of two weeks thereafter.

Sd/-
Assistant Registrar

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Sub Assistant Registrar



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1. The II Judge,
Motor Accident Claims Tribunal
Court of Small Causes, Chennai.
2. The Section Officer
Vernacular Records Section
High Court, Madras.

+1cc to M/s.P.T.Salim Fathima, Advocate, S.R.No.28304
+1cc to Mr.K.Moorthy, Advocate, S.R.No.28761

CMA. No. 2083 of 2014

NRK[co]
NSK 16/11/2021