



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 02.07.2021	Delivered on: 30.07.2021
----------------------------	-----------------------------

CORAM:

THE HONOURABLE TMT.JUSTICE S.KANNAMMAL

C.M.A.No.2615 of 2014

V.Chidambaram

.. Appellant/Petitioner

Vs.

Metropolitan Transport Corporation
[Chennai Division] Limited,
rep. 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 17.04.2014 made in M.C.O.P.No.4320 of 2008, on the file of the Special Sub Court No.I, (Motor Accidents Claims Tribunal), Chennai.

For Appellant : Mr.R.Kalai Araasan

For Respondent : Mr.K.Moorthy

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 17.04.2014 made in M.C.O.P.No.4320 of 2008, on the file of the Special Sub Court No.I, (Motor Accidents Claims Tribunal), Chennai.

2.The appellant-claimant, filed M.C.O.P.No.4320 of 2008, on the file of the Special Sub Court No.I, (Motor Accidents Claims Tribunal), Chennai, claiming a sum of Rs.9,00,000/- as



compensation for the injuries sustained by him in the accident that took place on 08.11.2008.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by driver of the Bus owned by the respondent-Transport Corporation and directed the respondent-Transport Corporation to pay a sum of Rs.1,15,000/- as compensation to the appellant.

4.Not being satisfied with the amounts awarded by the Tribunal in the award dated 17.04.2014 made in M.C.O.P.No.4320 of 2008, the appellant has come out with the present appeal.

5.The learned counsel appearing for the appellant contended that at the time of accident, the appellant was working as an Assistant Road Inspector at Highway Department and was earning a sum of Rs.9,500/- per month. In the accident, the appellant suffered severe head injuries, injury over left temporal intra cerebral haemorrhage, depressed fracture left partial bone, acquit sub-dural hematoma surrounding edema, brain injury and other injuries. He took in-patient treatment at MIOT Hospital, Chennai, from 08.11.2008 to 11.11.2008, for a period of 4 days. The appellant has underwent surgeries on head. P.W.3 Doctor examined the appellant and certified that the appellant suffered 50% disability. The Tribunal granted only a meagre sum of Rs.2,000/- per percentage for 30% disability, instead of granting Rs.3,000/- per percentage. Due to the injuries sustained in the accident, the appellant suffered hepatitis infection and was on leave for 64 days. The Tribunal awarded a meagre sum towards loss of earning for only 10 days, instead of awarding for 64 days. The appellant is undergoing further treatment as out-patient. Considering the nature of injuries and the deposition of P.W.3-Doctor about the disablement suffered by the appellant, the Tribunal ought to have awarded compensation towards loss of earning power and loss of amenities. The amounts awarded by the Tribunal towards transportation to hospital and extra nourishment are meagre. The total compensation awarded by the Tribunal is meagre and prayed for enhancement of the compensation.

6.Per contra, the learned counsel appearing for the respondent-Transport Corporation contended that the Tribunal considering the nature of injuries, period of treatment taken by the appellant, rightly awarded compensation under different heads, which are not meagre. The appellant has not made out any case for enhancement of the compensation and prayed for dismissal of the appeal.



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

WEB COPY

8. It is the case of the appellant that in the accident, he suffered severe head injury over left temporal intra cerebral haemorrhage, depressed fracture left parietal bone, acute subdural hematoma surrounding edema, brain injury and other injuries and has taken treatment as in-patient at the MIOT Hospital, Chennai, from 11.11.2008 to 22.11.2008, for a period of 10 days. During the treatment period, the appellant underwent surgery in head. To prove the same, he has produced discharge summary and marked the same as Ex.P11. P.W.3 Doctor examined the appellant and certified that the appellant suffered 50% disability. The respondent did not let in any evidence to disprove the evidence of P.W.3 - Doctor and disability certificate marked as Ex.P17. The Tribunal reduced the percentage of disability to 30%, without assigning any reasons. The same is erroneous. Considering the nature of injuries sustained, the appellant is entitled to compensation towards disability for 40% disability, as there is no contra evidence. The Tribunal has awarded a sum of Rs.60,000/- towards disability, at the rate of Rs.2,000/- per percentage for 30% disability. Considering the year of accident and rise in cost of living, this Court awards a sum of Rs.3,000/- per percentage for 40% disability suffered by the appellant. Hence, the amount awarded by the Tribunal towards disability is modified to Rs.1,20,000/- [40% x Rs.3,000/-], at the rate of Rs.3,000/- per percentage for 40% disability. The Tribunal failed to award any amount towards attendant charges. Taking into consideration the period of treatment taken by the appellant, a sum of Rs.15,000/- is awarded towards the said head. Considering the nature of injuries and disability suffered by the appellant, the amounts awarded by the Tribunal towards pain and suffering and transportation charges are meagre and the same are enhanced to Rs.25,000/- and Rs.10,000/- respectively. Due to the injuries sustained in the accident, the appellant would have suffered discomfort. The Tribunal failed to award any amount towards loss of amenities and damage to clothes. Hence, a sum of Rs.25,000/- is awarded towards loss of amenities and Rs.1,000/- towards damage to clothes.

9. The learned counsel appearing for the appellant further contended that at the time of accident, the appellant was working as an Assistant Road Inspector in Highways Department, Chennai Zone and was earning a sum of Rs.9,500/- per month. Due to the injuries sustained in the accident, he took 64 days leave. To substantiate the same, he has filed Ex.P14- Identity



Card, Ex.P15- Pay Certificate and Ex.P16, Leave Certificate. Though the appellant has claimed that he applied for 64 days leave, the Tribunal has observed that the appellant has not applied for leave for the injuries sustained in the accident, but for hepatitis treatment. But for the accident, the appellant would not have applied for leave. Hence, considering the same, the amount of Rs.10,000/- awarded towards loss of income is enhanced to Rs.20,000/-. The amounts awarded by the Tribunal under different 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
1.	Loss of income	10,000/-	20,000/-	Enhanced
2.	Transportation charges	5,0000/-	10,000/-	Enhanced
3.	Extra nourishment	10,000/-	10,000/-	Confirmed
4.	Medical expenses	10,000/-	10,000/-	Confirmed
5.	Pain and sufferings	20,000/-	25,000/-	Enhanced
6.	Permanent disability	60,000/-	1,20,000/-	Enhanced
7.	Damage to clothes	-	1,000/-	Granted
8.	Loss of amenities	-	25,000/-	Granted
9.	Attendant charges	-	15,000/-	Granted
	Total	1,15,000/-	2,36,000/-	Enhanced by Rs.1,21,000/-

10. In the result, the appeal is partly allowed and the amount awarded by the Tribunal at Rs.1,15,000/- is enhanced to Rs.1,21,000/- 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, 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.4320 of 2008. 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

gsa

To

1.The Special Subordinate Judge No.I,
(Motor Accident Claims Tribunal),
Chennai.

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

+1cc to Mr.K.Moorthy, Advocate SR.No.37324

+2ccs to Mr.NM.Muthurajan, Advocate SR.No.37180

C.M.A.No.2615 of 2014

KG(CO)
GMY(16/11/2021)