



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 19.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CMA.No.2812 of 2014

R.Ravindhran

... Appellant/Claimant

Vs.

The Managing Director
Tamil Nadu State Transport Corporation
(Salem) Limited
No.12, Ramakrishna Road
Salem.

... Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 22.06.2012 passed in M.C.O.P.No.1080 of 2009 by the Subordinate Judge, Motor Accident Claims Tribunal, Dharmapuri.

For Appellant : Mr. M. Selvam

For respondent : Ms.P.Rajathi for
Mr.D.Raghu

J U D G M E N T

Not satisfied with the quantum of compensation awarded by the Tribunal, the claimant is before this court for enhancement of compensation.

2. The appellant/claimant has filed a claim petition before the Tribunal seeking compensation of Rs.10,00,000/- for the injuries sustained by him in a road accident that took place on 08.03.2009.

3. The brief case of the claimant is as follows: On



08.03.2009, at about 12.30 p.m., while the petitioner was on duty conductor in the TNSTC bus bearing Registration No.TN 29 N 2162, and standing in the Hosur bus stop, a TNSTC bus bearing Registration No.TN-29 N 1861 belonging to the respondent/Corporation was driven by its driver in a rash and negligent manner and hit against the petitioner and thereby, he sustained grievous injuries. According to the claimant, the rash and negligent driving of the driver of the bus was the cause of accident and since the respondent Corporation is the owner of the vehicle, they are liable to pay compensation to the claimant.

4. The claim petition was resisted by the insurance company by filing counter affidavit.

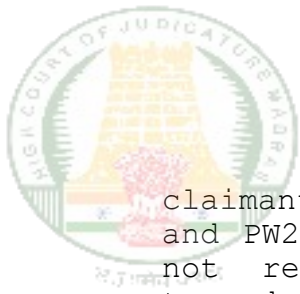
5. Before Tribunal, on the side of the claimant, the claimant and one Dr. Krishnakumar were examined as PW1 and PW2 and Ex.P1 to Ex.P8 were marked. On the side of the respondent, no oral and documentary evidence was adduced.

6. After analysing the evidence on record, the Tribunal has awarded a sum of Rs.2,39,296/- under various heads, as extracted hereunder.

Sl No	Heads	Amount in Rs.
1	Permanent disability 1000 x 45	45,000
2	Pain and sufferings	10,000
3	Attender Charges	5,000
3	Extra nourishment	5,000
4	Transportation charges	2,000
5	Medical Expenses	1,72,296
	Total	2,39,296

Not satisfied with the quantum of compensation, the claimant has filed the present appeal for enhancement of compensation.

7. Heard the learned counsel for the appellant and the learned counsel for the insurance company and I have perused the materials on record.



8. The learned counsel appearing for the appellant/claimant submitted that without appreciating the evidence of PW1 and PW2, the quantum of compensation awarded by the Tribunal is not reasonable. He further submitted that no amount was awarded towards "Loss of Amenities" and the compensation amount awarded towards "Attender Charges" and Transportation charges are very meagre, and hence, he prayed to enhance the compensation.

9. The learned counsel appearing for the respondent/Transport Corporation submitted that the petitioner alone rash and negligently ran before the moving bus and therefore, the entire negligence is only on the part of the claimant. He further submitted that the respondent is not liable to pay any compensation to the claimant as the entire fault is on the part of the claimant and hence, he prayed to set aside the Award passed by the Tribunal.

10. Now the points for determination is
(i) Whether the compensation awarded by the Tribunal has to be enhanced?

11. Point No.1:

It is the contention of the claimant that due to the accident, he has sustained fracture in his right rib and also due to the injuries sustained in the stomach, his spleen was damaged and he had undergone surgery. PW2 doctor, who was examined on the side of the appellant/claimant deposed before the Tribunal that the claimant sustained 45% disability. But, without considering the evidence of PW2 who has deposed that the said injury caused to the appellant is grievous in nature, the Tribunal awarded only Rs.1000/- per percentage is without any basis. On considering the oral and documentary evidence, it reveals that the appellant was suffered grievous injuries on the body and the doctor, who examined the claimant deposed that he sustained fracture on his right rib and due to the injuries, his spleen was damaged and he had undergone surgery and thereby, he suffered 45% permanent disability. This Court accepted the contention of the appellant and awarded Rs.2000/- per percentage and accordingly, a sum of Rs.90,000/- is awarded towards permanent disability. As far as the other heads viz., pain and suffering, attender charges, and transportation charges are concerned, the Tribunal has awarded very meagre amount and this court is of the view that it is just and reasonable to enhance the compensation of Rs.20,000/- towards "pain and suffering, Rs.10,000/- towards " Attender Charges" and Rs.5,000/- towards "transportation charges" respectively. Also, this Court is inclined to award Rs.10,000/- towards "Loss of amenities" and Rs.5,000/- towards "Damage to Clothes". Accordingly, the revised compensation awarded under various heads is extracted hereunder.



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Sl. No	Heads	Compensation Awarded by the Tribunal	Compensation enhanced/ Awarded by this court
1	Permanent disability	45,000	90,000 (2000 x 45)
2	Pain and sufferings	10,000	20,000
3	Attender charges	5,000	10,000
4	Extra nourishment	5,000	5,000
5	Transportation charges	2,000	5,000
6	Loss of amenities	-	10,000
7	Damages to cloth	--	5,000
8	Medical Expenses	1,72,296	1,72,296
	Total	2,39,296	3,17,296
	Rounded off to		3,17,000

Accordingly, the appellant/claimant is entitled to a compensation of Rs.3,17,000/- along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit.

12. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed and the award passed by the Tribunal is enhanced from Rs.2,39,296/- to Rs.3,17,000/-. No costs.

(ii) The respondent/Transport Corporation is directed to deposit the enhanced compensation of Rs.3,17,000/- with interest at the rate of 7.5% p.a. from the date of claim petition till the date of deposit, less the amount if already deposited, within a period of 12 weeks from the date of receipt of a copy of this order.

(iii) On such deposit being made by the insurance company, the claimant is at liberty to withdraw the same, after following due process of law.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Subordinate Judge,
Motor Accident Claims Tribunal,
Dharmapuri.

2. The Section Officer,
V.R.Section,
Madras High Court,
Chennai-104.

+1cc to Mr.D.Raghu, Advocate, S.R.No.18026

+1cc to Mr.M.Selvam, Advocate, S.R.No.17970

CMA. No.2812 of 2014

LN (CO)
SU (25/10/2021)