



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 23.02.2021

Coram::

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.M.A.No.1339 of 2017

C.Sampath,
S/o.Chinnapaiyan,
Aniyallai Village,
Kalasapakkam (TK),
Tiruvannamalai District.

... Appellant/Claimant

/versus/

1. K.Kumar,
2. The Managing Director,
Tamil Nadu State Transport Corporation,
(Villupuram) Ltd.,
Thiruvannamalai Region,
Thiruvannamalai.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicle Act, 1988, against the judgment and decree made in M.C.O.P.No.156 of 2014 on the file of Motor Accident Claims Tribunal Judge cum Subordinate Court Judge, Arni, Thiruvannamalai District. dated 23.11.2016.

For Appellant : Mr.A.Panneerchelvam

For R2 : Mr.K.J.Sivakumar

For R1 : No appearance

J U D G M E N T

The Appeal is filed by the claimant seeking enhancement of compensation on the ground that the tribunal has erred in reducing the disability assessed by the doctor and not applied multiplier method for the loss of income due to functional disability.

2. It is a case where the claimant while travelling in his two wheeler was hit by the Transport Corporation bus near Thenpallipattu Kuttu Road. In the said accident, the claimant



sustained hip injury, fracture in his head and was hospitalised for 16 days and underwent surgery at M.I.O.T Hospital. A Claim petition for a sum of Rs.15,00,000/- was filed before the Tribunal.

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3. The Tribunal, after considering the disability certificate Ex.P.8 given by P.W.2 Doctor, had fixed disability at 20% and awarded a sum of Rs.60,000/- as compensation.

4. In the appeal, the Learned Counsel for the appellant submitted that, at the time of accident, the claimant was 19 years old and the said injury has affected his marriage prospects badly. His earning capacity also affected substantially. Hence, fair and adequate compensation must be given by applying multiplier.

5. The Learned Counsel appearing for the Transport Corporation would submit that, the injury sustained by the claimant is not a scheduled injury and there is no evidence to show that it has affected his functional ability or earning capacity.

6. The Tribunal, taking note of the disability certificate given by P.W.2 Doctor, which is in respect of the part of the body and not the whole body, had converted the percentage of disability given by the doctor for part of the body into whole body disability and has assessed 20%.

7. On considering the evidence, this Court finds that the fracture of the hip, which has immobilised the claimant for nearly two months had substantial disability to him, therefore, the partial permanent disability is fixed as 30% instead of 20% and Rs.90,000/- is awarded. Insofar as the compensation under other heads, the same required enhancement, hence the award is modified as below:-

Sl. Nos.	Compensation under various heads	Award passed by this Court.
1.	Loss of income (30% x 3,000)	Rs.90,000
2.	Pain and sufferings	Rs.15,000
3.	Food and Nutritious	Rs.5,000
4.	Loss of income during the treatment period	Rs.18,000
5.	Medical expenses	Rs.3,21,281
6.	Transport	Rs.5,000
7.	Attender charges (2,000 x 3)	Rs.6,000
	Total	Rs.4,60,281/-



8. The 2nd respondent/Transport Corporation is directed to pay a sum of Rs.4,60,281/- with 7.5% interest from the date of filing the petition till the date of realisation. The 2nd respondent/Transport Corporation shall deposit the award amount within a period of 8 weeks, from the date of receipt of copy of this judgment. On such deposit, the claimant is entitled to withdraw the same on filing proper application.

9. Accordingly, the Civil Miscellaneous Appeal is Party-Allowed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

bsm

To:-

1. The Motor Accident Claims Tribunal Judge
cum Subordinate Court Judge,
Arani, Thiruvannamalai District.

Copy to

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

+lcc to Mr.K.J.Sivakumar, Advocate, S.R.No.11641
+lcc to Mr.A.Panneerchelvam, Advocate, S.R.No.11022

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SSI (CO)
HS (07/09/2021)