



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2021

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN
C.M.A.No.1908 of 2017

Vijay @ Vijayakanth

...Appellant/Claimant

Vs

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Villupuram Division-II,
Rangapuram,
Vellore-632 009.

...Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the Judgment and Decree dated 23.02.2017 in M.C.O.P.No.288 of 2014 on the file of Motor Accident Claims Tribunal, Chief Judicial Magistrate, Vellore, Vellore District.

For Appellant : Mr.G.Rajan
For Respondent : Mr.C.S.K.Sathish

JUDGMENT

This Civil Miscellaneous Appeal is filed by the claimant for enhancement of compensation.

2. The facts of the case is that on 25.09.2014, when the petitioner was traveling as a passenger in the respondent bus plying from Chennai to Oosur, near Ambur Taluk police station, the bus dashed against the stationed lorry, in which 7 passengers traveling in the bus were injured. The appellant herein is one among them. In the said accident, the claimant sustained fracture of the left femur bone, injuries on his head, forehead, face and all over the body. Claiming that he is employed in a bakery at Chennai, earning Rs.18,000/- per month, petition filed seeking Rs.10,00,000/- as compensation.

3. The Tribunal on appreciating the evidence has awarded a sum of Rs.1,42,000/- with 7.5% interest from the date of petition till the date of realisation.

4. In the appeal, it is contended by the learned counsel for the appellant that the Tribunal has failed to grant appropriate compensation for the injury sustained. The claimant was earning Rs.18,000/- per month and he lost his income for



nearly six months during the treatment period. The said loss has not been properly appreciated. He would further submit that though the claimant was admitted as in-patient for 23 days for his treatment for fractured leg, he was awarded only Rs.2,500/- for medical expenses. Therefore, pleaded that fair and adequate compensation should be granted by enhancing the quantum of compensation.

5. The learned counsel appearing for the Transport Corporation would submit that the Tribunal has rightly awarded compensation based on the opinion given by the medical board and the bill produced by the claimant. Though the claimant claims that he was earning Rs.18,000/- per month, he has not produced any document and the Tribunal has fixed his income notionally at Rs.6,000/- and compensated the loss of income for six months. Under the caption pain and suffering as well as transportation and food, enough compensation awarded even without evidence. Hence he submit that there is no necessity to interfere the award of the Tribunal.

6. The evidence produced by the claimant/appellant reveals that the claimant was first taken to the Government hospital, Ambur and then shifted to Vellore Medical College hospital. He was under treatment from 25.09.2014 to 18.10.2014, nearly 23 days. Ex.P5 series - medical bill was produced by the claimant for a sum of Rs.2,668/-. These documents are the evidence to show the claimant was hospitalised for 23 days and got treated for his fractured leg. The medical board has assessed the disability at 25%. The Court take note of the fact that the claimant took treatment in the Government hospital and could produce bill only for Rs.2,668/-, it does not mean for the 14 days in-patient treatment he would not have incurred any other medical expenses. It has to be taken note that the claimant who was working in Chennai had sustained injury and hospitalised at Vellore. Therefore, he would have incurred expenses for transportation also. So additional expenses towards medicine and transportation ought to have granted. for which, he could not secured bills. Therefore this Court is of the view that the claimant is entitled for additional compensation as below:

Medical expenses	Rs.6,000/-
Food and Extra nourishment	Rs.10,000/-
Transport	Rs.2,500/-
Disability (Rs.3000x25)	Rs.75,000/-
Loss of income	Rs.6,000x6
Pain and Suffering	Rs.30,000/-

Total	Rs.1,59,500/-



7. Totally the compensation is enhanced to Rs.1,59,500/- from Rs.1,42,000/. The respondent/Transport Corporation herein is directed to deposit the award amount as enhanced with interest at the rate of 7.5% per annum from the date of petition till the date of realization within a period of twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the same on appropriate petition.

8. In the result, this Civil Miscellaneous Appeal is partly allowed. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

rpl

To

The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Vellore, Vellore District.

Copy to

The Section Officer
VR Section
High Court, Madras 104.

+1 CC to Mr.R. Rajarajan, Advocate sr 12126.

C.M.A.No.1908 of 2017

SSI (CO)
SP(06/09/2021)