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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2021

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.M.A.No.1909 of 2017

Murali

...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.289 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 seven passengers sustained injury The claimant Murali is one among them. In the said accident the claimant sustained fractured of his both bone on the right leg and the medical board assessed his disability at 30% permanent disability. At the time of accident, the claimant was working in a bakery at Chennai and earning Rs.18,000/- per month. Hence, claim for Rs.10,00,000/- was filed.

3. The Tribunal after assessing the evidence has awarded a sum of Rs.1,87,000/- as compensation. This appeal is filed seeking enhancement of compensation on the ground that the Tribunal has not properly considered the medical expenses and the nature of injury which has caused impairment of earning.



4. The learned counsel appearing for the Transport Corporation would submit that the Tribunal has awarded a fair compensation of Rs.1,87,000/- based on the medical record and other documents produced by the claimant, even though there is no evidence for his income, the Tribunal had fixed Rs.6,000/- notionally and taken six months period for partial loss of income to award compensation.

5. Heard both sides. Records perused.

6. The claimant on sustaining injury in the accident had been initially treated at Government hospital, Ambur and then shifted to Vellore Medical College hospital. He had been in the hospital as in-patient till 11.11.2014 and thereafter got admitted in a private hospital at Krishnagiri. For treatment of his fractured leg, he has spent around Rs.37,006/-, for which, bills were produced. The medical board assessed 30% disability and issued the disability certificate which is marked as Ex.C2.

7. On perusing the evidence, this Court finds that the Tribunal has fairly assessed the damage and awarded adequate compensation except under the head transportation and for disability. Since the accident occurred in the year 2014, this Court is the view that the compensation per percentage of disability shall be increased from Rs.2,500/- to Rs.3,000/-. Accordingly, the award is modified as below:

Medical expenses	Rs.35,000/-
Nutritious Food	Rs.10,000/-
Transport	Rs.4,000/-
Disability	Rs.90,000/-
Loss of income	Rs.36,000/-
Pain and Suffering	Rs.30,000/-

Total	Rs.2,05,000/-

8. Totally the compensation is enhanced to Rs.2,05,000/- from Rs.1,87,000/-. 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.



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

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-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

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

Copy to

The Section Officer
VR Section
High Court, Madras 104.

C.M.A.No.1909 of 2017

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