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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.4034 of 2019

(Through Video Conferencing)

Arulprakash

... Appellant/Claimant

Vs.

1.Jerin Prakash

2.The Bajaj Allianz General Insurance Co. Ltd.,
Divisional Office at Sri Lakshmi Complex,
1st Floor, Bharathi Street, Omalur Main Road,
Swarnapuri, Salem - 636 001.

3.The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Salem Division-1, No.12, Ramakrishna Road,
Salem - 636 007.

... Respondents/Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree in M.C.O.P.No.786 of 2016, dated 04.07.2019 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Judge No-II, Salem.

For Appellant : Mr.T.S.Arthanareeswaran

For R1 : No appearance

For R2 : M/s.K.Poomalai

For R3 : Mr.D.Venkatachalam

J U D G M E N T

The claimant is the appellant in this Civil Miscellaneous Appeal . The claimant is aggrieved by the impugned Judgment and Decree dated 04.07.2019 passed by the Motor Accident Claims Tribunal (Special Subordinate Court No.II, Salem), Salem in M.C.O.P.No.786 of 2016.



2. By the impugned Judgment and Decree dated 04.07.2019, the Tribunal has awarded a sum of Rs.6,00,533/- as compensation together with interest at 7.5% per annum from the date of claim petition till the date of deposit to the appellant. By the impugned Judgment and Decree, the the Tribunal has also ordered pay and recovery since the driver of the offending vehicle was not possessing a valid driving license who is the appellant in this appeal. Aggrieved by the same, the present Civil Miscellaneous Appeal has been filed.

3. The case of the appellant was that on 01.01.2016, at about 7.40 p.m, the appellant was riding a Motorcycle (TVS Apache) bearing registration No.TN-34-S-5920 on the Salem - Tiruchengode Main Road at Mallasamuthiram, Mealmugam, Suriyagoundampalayam, near TCMS Bus Stop. At that time, the driver of a omni bearing registration No.TN-30-AB-0774 belonging to the first respondent insured with the second respondent while overtaking a Bus bearing registration No.TN-30-N-0589 belonging to the third respondent Tamil Nadu State Transport Corporation hit the appellant, as a result of which, the appellant sustained grievous injuries and was taken to the hospital.

4. Therefore, he filed the claim petition for the injuries suffered by him, on which, the aforesaid compensation has been awarded.

5. The learned counsel for the appellant submitted that the amount of compensation awarded by the Tribunal was to be enhanced considering the fact that the appellant suffered the following injuries:-

- i. Right frontal thin EDH, left temporal contusion
- ii. Fracture right clavicle
- iii. Fracture mandible right symphysis and left angle.

6. Apart from the above, the appellant also lost his tooth. Therefore, the appellant seeks enhancement of compensation awarded by the Tribunal.

7. Defending the impugned order, the learned counsel for the second respondent Insurance Company submits that the impugned Judgment and Decree is well reasoned and requires no interference and prays for confirming the award amount and dismissal of the present appeal.

8. The learned counsel for the third respondent Tamil Nadu State Transport Corporation Limited submits that the impugned Judgment and Decree may be confirmed and prays for dismissal of this appeal.



9. I have considered the arguments advanced by the learned counsel for the appellant and learned counsel for the second respondent and the learned counsel for the third respondent Tamil Nadu State Transport Corporation. I have perused the impugned Judgment and Decree passed by the Tribunal and evidence on record.

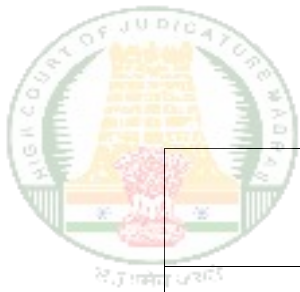
10. In my view, a sum of Rs.90,000/- and Rs.42,000/- awarded by the Tribunal towards permanent disability and the loss of income for the period of six months appears to be low as the appellant has also lost his teeth. It would require a dental surgery and requires the appellant to regularly visit the dentist due to the permanent disability.

11. Therefore, a sum of Rs.90,000/- awarded towards permanent disability is enhanced by another sum of Rs.25,000/-. Since the Tribunal has awarded a sum of Rs.42,000/- by considering the notional income of the appellant as Rs.7,000/- per month, I am of the view, the notional income of the appellant can be taken to Rs.12,500/- per month. Therefore, a sum of Rs.42,000/- awarded towards loss of income for the period six month is enhanced to Rs.75,000/- (Rs.12,500/- x 6).

12. Similarly, since the amount of compensation awarded by the Tribunal towards Transport Expenses, Extra Nourishment and Attendar Charges appear to be low, same is enhanced to Rs.15,000/-, Rs.15,000/- and Rs.12,000/- respectively.

13. Details of the compensation awarded by the Tribunal and the enhanced amount of compensation awarded by this Court is given as follows:-

Heads	Award amount of the Tribunal	Enhanced amount of this Court	Status
Permanent Disability	Rs. 90,000/-	Rs.1,15,000/-	Enhanced
Pain and Sufferings	Rs. 30,000/-	Rs. 30,000/-	Confirmed
Loss of amenities	Rs. 30,000/-	Rs. 30,000/-	Confirmed
Medical Expenses	Rs.3,82,533/-	Rs.3,82,533/-	Confirmed
Loss of Income for 6 months	Rs. 42,000/-	Rs. 75,000/-	Enhanced
Transport Expenses	Rs. 10,000/-	Rs. 15,000/-	Enhanced
Extra Nourishment	Rs. 10,000/-	Rs. 15,000/-	Enhanced
Attendar Charges	Rs. 5,000/-	Rs. 12,000/-	Enhanced
Damages to Clothes	Rs. 1,000/-	Rs. 1,000/-	Confirmed



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Heads	Award amount of the Tribunal	Enhanced amount of this Court	Status
Total	Rs.6,00,533/-	Rs.6,75,533/-	Enhanced by another sum of Rs.75,000/-

14. Therefore, the second respondent is directed to deposit a sum of Rs.6,75,533/- together with interest at 7.5% per annum from the date claim petition till the date of deposit in the method of payment ordered by the Tribunal, less any amount already deposited, by filing suitable applications before the Tribunal. The pay and recovery ordered by the Tribunal is confirmed. Therefore, the second respondent is entitled to recover the same from the owner of the insured vehicle in accordance with law.

15. On such deposit, the appellant is permitted to withdraw the same together with interest, less any amount already withdrawn, by filing suitable application before the Tribunal.

16. Accordingly, this Civil Miscellaneous Appeal is partly allowed. No cost.

Sd/-

Assistant Registrar(JJ Act)

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Sub Assistant Registrar

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To

1.The Motor Accidents Claims Tribunal,
Special Subordinate Judge No-II,
Salem.

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

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.25387

+1cc to M/s.K.Poomalai, Advocate, S.R.No.26097

C.M.A.No.4034 of 2019

BS(CO)
CB(17/11/2021)