



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CMA No. 1673 of 2018

P.Hemanth Kumar

... Appellant/Claimant

Vs

The Managing Director,
Metropolitan Transport Corporation Limited.,
Pallavan Salai, Chennai -2.

... Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the M.V. Act, 1988 against the Judgment and Decree passed by the Motor Accidents Claims Tribunal, IV Judge, Small Causes Court, Chennai - 104 passed in M.C.O.P.No. 4554 of 2014 dated 25.01.2016.

For Appellant : Mr. C.Richard Suresh Kumar

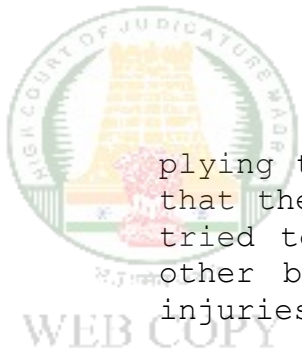
For Respondent: Mr. S.Swaminathan

J U D G M E N T

The petitioner in M.C.O.P.No. 4554 of 2014 on the file of the IV Court of Small Causes, Chennai, Motor Accidents Claims Tribunal, has filed this appeal aggrieved by the Judgment dated 25.01.2016 whereby towards injuries sustained, the aforementioned Tribunal had granted a total compensation of Rs.1,57,500/-. Seeking enhancement of such compensation, the present Civil Miscellaneous Appeal had been filed.

2. Heard Mr.C.Richard Suresh Kumar, learned counsel for the appellant and Mr.S.Swaminathan, learned counsel for the respondent.

3. A perusal of the facts reveal that the appellant, on 15.07.2014 at around 1 p.m., was travelling as a passenger in a M.T.C., bus bearing Registration No. TN-01-N-8004, which was



plying through Perambur High Road. At that time, it is claimed, that the driver drove the bus in a rash and negligent manner and tried to overtake another bus and in the process, hit the said other buses. The petitioner fell down and sustained grievous injuries.

4. The Tribunal on appreciation of the evidence presented before it, had confirmed that the accident was caused only due to the rash and negligent driving of the driver. In view of that particular fact, let me not re-visit that finding.

5. The point now to be considered in the present Appeal is regarding the compensation or rather the quantum of compensation granted by the Tribunal.

6. It is the case of the appellant that immediately after he sustained the injuries, he had been taken to the Trauma and Orthopaedic Specialty Hospital, Chennai and was treated as inpatient from 15.07.2014 to 25.07.2014. Necessary records with respect to such treatment had been filed as Exs. P-2 and P-4. To further speak about injuries sustained, the appellant had also examined a Doctor as PW-2, who produced Exs. P-8 and P-9 which included an X-ray and also a disability certificate. It must be pointed out that the appellant had sustained the following injuries:-

"fracture of inferior and superior pubic rami on the right side."

7. The disability was assessed at 30%. Finding fault with such determination and claiming that such determination was not done with respect to the whole body, the Tribunal had fixed disability at 15%. This is one of the main reasons of grievance of the learned counsel for the appellant, who claimed that while taking into consideration the nature of the injury suffered which is also substantiated by the medical records, particularly the X-ray which evidently shows the fractures suffered by the appellant herein, the disability should not have been re-visited by the Tribunal.

8. Having heard the learned counsel for the appellant and the respondent, I am of the firm opinion that determining the disability at 20% would meet the ends of justice. One more aspect in relation to the appellant, is, the sum to be determined for 1% disability. The Tribunal had determined a sum of Rs.3,000/-. However, it is seen that he had suffered injuries and was admitted in hospital for atleast 10 days and it is also



seen that the petitioner at the time of the accident was studying 1st year B.Sc., Computer Science and naturally any disfigurement or even a partial disfigurement to his physical body, would deeply affect him. Moreover, the future prospectus of any student studying Computer Science is quite bright and that factum also has to be taken into consideration by this Court. I would therefore increase that particular amount from Rs.3,000/- to Rs.4,000/-. Taking these factors into consideration and determining the disability at 20%, the total amount now comes to Rs.80,000/- [4,000 x 20]. This would be the compensation granted under the head, disability suffered.

9. I would not interfere with any of the compensation granted under the other heads except with respect to the extra nourishment which had been determined at Rs.5,000/- but would grant a sum of Rs.10,000/- taking into consideration that he had been in hospital for 10 days and the appellant would have also required some strengthening nutrients during the recovery.

10. There is yet another issue of the attended charges, for which, a sum of Rs.2,750/- had been granted. I would grant a sum of Rs.5,000/- once again taking into consideration that he had been in hospital for about 10 days.

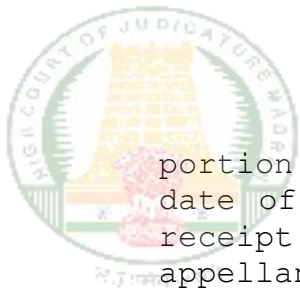
11. Now, the compensation amount is therefore granted as follows:-

1. Disability	:	Rs.	80,000/-
2. Pain and suffering	:	Rs.	50,000/-
3. Extra nourishment	:	Rs.	10,000/-
4. Transport to Hospital:		Rs.	5,000/-
5. Damages to clothes :		Rs.	1,000/-
6. Attender charges	:	Rs.	5,000/-
7. Medical Expenses	:	Rs.	23,750/-
8. Future Medical Expenses:		Rs.	5,000/-
9. Loss of Education	:	Rs.	10,000/-
10. Loss of Amenities	:	Rs.	10,000/-

Rs.1,99,750/-

12. The additional compensation granted is Rs.42,250/-. In fine, the Appeal is partly allowed. No costs. The award is modified. The compensation award is enhanced to Rs.1,99,750/-.

13. The respondent is directed to deposit the enhanced amount less the amount already deposited, if any, with interest at the rate of 7.5% per annum after deducting the interest



portion for 564 days from the date of filing of the petition till date of deposit within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the appellant/claimant is permitted to withdraw the award amount, after adjusting the amount, if any, already withdrawn. No order as to costs.

Sd/-

Assistant Registrar(CCC)

// True Copy //

Sub Assistant Registrar

vsg

To

1.The IV Judge,
Motor Accident Claims Tribunal,
IV Court of Small Causes, Chennai.

Copy to:
The Section Officer,
VR Section,
Madras High Court, Chennai.

+lcc to Mr.C.Richard Suresh Kumar, Advocate SR.No.11679

CMA No. 1673 of 2018

BS(CO)
CB(01/04/2022)