



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2022

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THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

Civil Miscellaneous Appeal No.1853 of 2018

Lazar

...Appellant/Petitioner

Vs.

The Managing Director,
State Express Transport Corporation Ltd.,
Pallavan Salai,
Chennai - 600 002.

...Respondent/Respondent

Prayer: The Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and Decree made in M.A.T.C.O.P.No.4233 of 2015, dated 07.09.2016, on the file of the Motor Accidents Claims Tribunal, IV Court of Small Causes, Chennai.

For Appellant : Mr.F.Terry Chella Raja

For Respondent : Mr.K.J.Sivakumar

JUDGMENT

The claimant in M.C.O.P.No.4233 of 2015 on the file of the IV Court of Small Causes Chennai, is the appellant herein.

2. He had filed the claim petition before the Tribunal owing to the fact that on 04.01.2015, when he was a passenger in a State Transport Corporation Bus bearing Registration No.TN 01 N 5559, the said bus had dashed against the bus which was going in the front bearing registration No.TN 21 N 1415, due to which, the petitioner had suffered injuries, for which, he claimed compensation.

3. The nature of the injuries suffered by the petitioner is as follows:

- " (i) fracture of left candyle (mandible)
- (ii) Chin laceration
- (iii) laceration of jaw"



4. The petitioner claimed that he was entitled for the compensation of Rs.10 lakhs.

5. The respondent had remained ex-parte before the Tribunal.

6. The Tribunal, in its Judgment dated 07.09.2016, had examined the first issue as to whether the accident had caused been owing to the rash and negligent driving by the driver of the respondent/State Transport Corporation Bus and having found that the bus had dashed against another bus in the front, had drawn a strong presumption that the negligence was only owing to the manner in which the bus was driven and accordingly placed negligence on the driver of the bus bearing Registration No.TN 01 N 5559. I would affirm that particular finding.

7. The Tribunal then proceeded to determine the compensation. In this regard, the Tribunal had examined the Disability Certificate produced by P.W.2.Doctor who marked Exs.P5/Disability Certificate and Ex.P6/X-ray and gave an opinion that for the aforementioned injuries, the claimant had suffered 45% disability. However the Tribunal had thought it fit that it would be appropriate to determine the disability at 20%.

8. It is to be seen that P.W.2 had not assessed the whole body and the nature of the injuries was only on the facial region and not in any other part of the body of the claimant. To that extent, I hold that the determination of 20% disability is reasonable.

9. The Tribunal then proceeded to grant a sum of Rs.3,000/- for 1% disability. This grant is contested by Mr.F.Terry Chella Raja, learned counsel for the appellant who claimed that the accident had occurred in the year 2015 and stated that this Court had taken a consistent view that for any accident that occurred at that particular period of time, a sum of Rs.5,000/- can be reasonably granted per percentage.

10. But however, taking into effect that the accident had occurred in January 2015, more particularly, on 04.01.2015, I would grant a sum of Rs.4,000/- per percentage based on the percentage that prevailed in the previous year 2014. This would indicate that the disability would be Rs.80,000/-[4000 X 20%].

11. The Tribunal had granted a sum of Rs.20,000/- towards pain and sufferings, but I would grant a sum of Rs.25,000/-, particularly because any injury on the mandible and on the



cheek, would cause difficulty not only in chewing food, but also in swallowing food. If there is a damage to the nerve, it might also affect the eye-sight of the individual. Therefore injury in this particular area would cause pain and suffering. I would enhance the compensation to Rs.25,000/- under the head of pain and suffering.

12. The Tribunal had granted a sum of Rs.2,500/- each for extra nourishment and for transport to hospital, and I would retain the same.

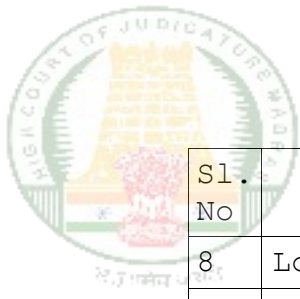
13. The Tribunal had granted a sum of Rs.750/- for damages to clothes. I would rather grant a sum of Rs.1,000/-. The Tribunal granted a sum of Rs.400/- for attendant charges and I would interfere with that particular aspect and grant a sum of Rs.1,000/-. Even though the injury was only on the face, there is requirement for specialized attention to be granted to ensure that this particular injury namely fracture to the left mandible, does not affect not only the upper portion of the head, but also that the infection does not spread to the thyroid region where it would cause further complications. This would require attention and on that particular reasoning, I would grant a sum of Rs.1,000/- towards attendant charges.

14. The Tribunal granted a sum of Rs.5,000/- towards medical expenses and a sum of Rs.2,500/- towards future medical expenses. I would grant a total sum of Rs. 10,000/- towards medical expenses incurred and future medical expenses.

15. The Tribunal granted a sum of Rs.5,000/- towards loss of amenities and I would retain the same.

16. The compensation now granted would be Rs.1,27,000/-. The calculation are as follows:

Sl. No	Description	Amount awarded by this Court (Rs)
1	Disability	Rs.80,000/-
2	Pain and suffering	Rs.25,000/-
3	Extra nourishment	Rs.2,500/-
4	Transport to Hospital	Rs.2,500/-
5	Damages to clothes	Rs.1,000/-
6	Attender Charges	Rs.1,000/-
7	Medical/future medical expenses	Rs.10,000/-



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Sl. No	Description	Amount awarded by this Court (Rs)
8	Loss of amenities	Rs.5,000/-
	Total	Rs.1,27,000/-

17. In the result, this Civil Miscellaneous Appeal is allowed. The compensation awarded by the Tribunal at Rs.98,700/- is hereby enhanced to Rs.1,27,000/- [Rupees One lakh and Twenty Seven Six Thousand only] together with interest at the rate of 7.5% per annum from the date of filing of claim petition till the date of deposit. The respondent/State Transport Corporation is directed to deposit the award amount, now determined by this Court, along with interest and costs, as awarded by the Tribunal less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.4233 of 2015, on the file of the Motor Accidents Claims Tribunal, IV Court of Small Causes, Chennai. On such deposit, the appellant is permitted to withdraw the amount, now awarded by this Court along with accrued interest and costs, as awarded by the Tribunal, less the amount if any, already withdrawn by making necessary application before the Tribunal. Since, this Court had enhanced the compensation, the appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation. In other aspects, the award of the Tribunal shall stand confirmed. There shall be no order as to costs in the present appeal.

s/d-
Assistant Registrar

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Sub-Assistant Registrar

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To

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



2.The Section Officer,
VR Section,
Madras High Court.

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+1 CC to M/s.M. Malar, Advocate sr 26568.

C.M.A.No.1853 of 2018

KV (CO)
SP (17/05/2022)