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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1443 of 2014

A.Babu

...Appellant/Claimant

Vs.

Metropolitan Transport Corporation Ltd.,
rep. By its Managing Director,
Pallavan Salai,
Chennai 2.

...Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 25.06.2013 made in M.C.O.P. No.679 of 2008, on the file of the V Small Causes Court, (Motor Accidents Claims Tribunal), Chennai.

For Appellant	:	Mr.T.G.Balachandran
For Respondent	:	No appearance

J U D G M E N T

(The matter is heard through "Video Conferencing/Hybrid mode")

This appeal has been filed for enhancement of the compensation granted by the Tribunal in the award dated 25.06.2013 made in M.C.O.P. No.679 of 2008, on the file of the V Small Causes Court, (Motor Accidents Claims Tribunal), Chennai.

2.The appellant/claimant filed M.C.O.P. No.679 of 2008, on the file of the V Small Causes Court, (Motor Accidents Claims Tribunal), Chennai, claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by him in the accident that took place on 24.11.2007.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that accident occurred due to rash



and negligent driving by driver of the Bus owned by the respondent-Transport Corporation and directed the respondent to pay a sum of Rs.1,70,500/- as compensation to the appellant.

4. Not being satisfied with the amounts awarded by the Tribunal in the award dated 25.06.2013 made in M.C.O.P. No.679 of 2008, the appellant has come out with the present appeal.

5. The learned counsel appearing for the appellant contended that in the accident, the appellant sustained degloving injury in left leg, taken treatment as in-patient at Government General Hospital and underwent surgery. P.W.2 Doctor examined the appellant and certified that the appellant suffered 40% disability. The Tribunal ought to have adopted multiplier method in awarding compensation towards 40% permanent disability suffered by the appellant, instead of reducing the percentage of disability to 35%. At the time of accident, the appellant was aged 38 years, working as a Mason and was earning not less than Rs.7,500/- per month. Due to the injuries sustained in the accident, the appellant was unable to continue his work as Mason for one year and suffered loss of earning. The amounts awarded by the Tribunal towards loss of income, loss of amenities and pain and sufferings are meagre. The total compensation awarded by the Tribunal under different heads are meagre and prayed for enhancement of the compensation.

6. Though the respondent-Transport Corporation entered appearance through counsel, there is no representation for them today.

7. Heard the learned counsel appearing for the appellant and perused the materials available on record.

8. It is the case of the appellant that in the accident, he suffered grievous injuries and P.W.2 Doctor certified that the appellant suffered 40% disability. The Tribunal reduced the percentage of disability to 35% and granted a sum of Rs.70,000/- towards permanent disability. This Court, by the order dated 22.01.2020, referred the appellant to appear before the Medical Board. The Medical Board examined the appellant and certified that the appellant suffered 60% disability. P.W.2 Doctor, in his evidence, has stated that there is no fracture. The Medical Board has not stated that the appellant cannot do any work. In view of the same, the appellant is not entitled to compensation by adopting multiplier method and he is entitled to compensation only by adopting percentage method for 60% disability, as

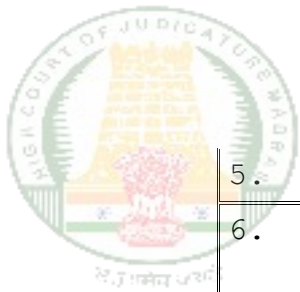


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assessed by the Medical Board, at the rate of Rs.2,000/- per percentage. Hence, the amount awarded by the Tribunal towards disability is enhanced to Rs.1,20,000/- [Rs.2,000/- x 60%]. For the injuries sustained in the accident, the appellant has taken treatment as in-patient at the Rajiv Gandhi Government General Hospital from 25.11.2007 to 04.01.2008 and from 26.06.2012 to 09.07.2012, for a period of 41 days. The Tribunal has not granted any amount towards attendant charges. Hence, a sum of Rs.25,000/- is awarded towards attendant charges. Considering the nature of injuries and period of treatment taken by the appellant, the amount awarded by the Tribunal towards extra nourishment is enhanced to Rs.25,000/-, as the amount awarded by Tribunal is meagre.

9.The appellant claimed that he was working as a Mason and was earning a sum of Rs.7,500/- per month. He did not file any material document to prove the same. In the absence of any evidence, the Tribunal granted a sum of Rs.20,000/- towards loss of income during treatment period, which is meagre. The accident is of the year 2007. Considering the year of accident and the nature of work done by the appellant, a sum of Rs.7,000/- per month is fixed as the notional income of the appellant. Due to the injuries sustained in the accident, he would not have worked atleast for a period of six months. Hence, the amounts awarded by the Tribunal towards loss of income is enhanced to Rs.42,000/- [Rs.7,000/- x 6 months]. Considering the nature of injuries and disability, this Court is of the considered view that the amounts awarded by the Tribunal under other heads are just and reasonable and hence, the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of income	20,000/-	42,000/-	Enhanced
2.	Transportation	10,000/-	10,000/-	Confirmed
3.	Extra nourishment	10,000/-	25,000/-	Enhanced
4.	Damage to clothes	500/-	500/-	Confirmed



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5.	Medical expenses	10,000/-	10,000/-	Confirmed
6.	Pain and sufferings	25,000/-	25,000/-	Confirmed
7.	Disfigurement of left leg	15,000/-	15,000/-	Confirmed
8.	Loss of amenities	10,000/-	10,000/-	Confirmed
9.	Disability	70,000/-	1,20,000/-	Enhanced
	Total	1,70,500/-	2,57,500/-	Enhanced by Rs.87,000 /-

10. In the result, the appeal is partly allowed and the amount awarded by the Tribunal at Rs.1,70,500/- is enhanced to Rs.2,57,500/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The respondent-Transport Corporation is directed to deposit the award amount, now determined by this Court, along with interest and costs, 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.679 of 2008. On such deposit, the appellant is permitted to withdraw the award amount, now determined by this Court, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. No costs.

Sd/-

Assistant Registrar (CCC)

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Sub Assistant Registrar

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To

1. The V Judge,
Small Causes Court,
(Motor Accidents Claims Tribunal),
Chennai.



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

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C.M.A.No.1443 of 2014

CP(CO)
SP(15/02/2022)