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C.M.A.No.698 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.07.2023

CORAM:
THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A.No.698 of 2022

Jeevanandam

...Appellant

Vs.

The Managing Director,
Metropolitan Transport Corporation,
Pallavan Salai,
Chennai – 600 002.

... Respondent

PRAYER : The Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 05.08.2019 in M.A.C.T.O.P.No.6579 of 2015 on the file of the Motor Accident Claims Tribunal, Principal Special Judge, Special Court under EC and NDPS Act, Chennai.

For Appellant : Mr.C.D.Kamaraj

For Respondent : Mr.A.Vinoth Raj

J U D G M E N T

The Civil Miscellaneous Appeal is filed challenging the quantum of compensation awarded by the Tribunal dated 05.08.2019 made in



M.A.C.T.O.P.No.6579 of 2015 on the file of Motor Accident Claims Tribunal, Principal Special Judge, Special Court under EC and NDPS Act, Chennai.

2. The appellant is the claimant in M.A.C.T.O.P.No.6579 of 2015 on the file of Motor Accident Claims Tribunal, Chennai. He filed the said claim petition claiming a sum of Rs.8,00,000/- as compensation for the injuries sustained by him in the accident that took place on 25.06.2015.

3. According to the appellant, on 25.06.2015, while he was driving the Tata-Ace Van bearing registration No.TN-06-E-2326, at Luz Church Road, in front of SBI Mylapore, the driver of the bus bearing registration No.TN-01-N-9518 drove the vehicle in the same direction in a rash and negligent manner and caused the accident. Due to the accident, the appellant suffered grievous injuries, and he was entitled to a compensation of Rs.8,00,000/-.

4. The respondent/Transport Corporation filed counter statement, denying all the averments made in the claim petition and stated that the accident did not happen due to the rash and negligent driving of the driver



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of the MTC bus bearing registration No.TN-01-N-9518. Hence, the claimant was not entitled for compensation.

5. Before the Tribunal, the appellant examined P.W.1 and P.W.2 and marked Exs.P1 to P7. On the side of the respondents the driver of the bus belonging to the respondent was examined as R.W.1. However, no documents were marked.

6. The Tribunal considering the pleadings, oral and documentary evidence held that the accident occurred due to rash and negligent driving by the driver of the bus belonging to the respondent/ Transport Corporation bearing registration No.TN-01-N-9518 and the Tribunal awarded a sum of Rs.20,000/- as compensation to the appellant and directed the respondent/ Transport Corporation to pay the same.

7. The learned counsel for the appellant submitted that the award of compensation at Rs.20,000/- for the injuries suffered by appellant is very meagre. The appellant was working as a driver and was earning a sum of Rs.15,000/- per month. He had suffered fracture due to the accident as per the Exs.P2 (O.P. Chit) and P.7. Though the appellant had not produced any



medical bills, he had taken native treatment, as a result of which, he had spent huge money for his treatment. The learned counsel further submitted that in view of the injuries, he had lost his income for more than three months. Hence, the Tribunal ought to have awarded compensation under the head “Loss of Income” for three months. The learned counsel further submitted that the award of the Tribunal under the head “Pain and Suffering” at Rs.10,000/- is also very meagre. Hence, he prayed for enhancement of compensation.

8. Per contra, the learned counsel for the respondent/ Transport Corporation submitted that the award of the Tribunal was fair, just and reasonable. The appellant/ claimant had not produced any medical bills to prove the expenses involved for the treatment. The Tribunal, on the basis of the O.P. Chit and the X-ray, awarded a sum of Rs.20,000/- as compensation and the same need not be interfered with. Hence, he prayed for dismissal of the appeal.

9. Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the respondent/ Transport Corporation and perused all the materials available on record.



10. This Court, on perusal of the pleadings and the judgment of the Tribunal finds that Exs.P.2 and P7 reveal that the appellant had suffered fracture. He had not produced any medical bills to establish the expenses incurred by him. However, considering the nature of injuries and his occupation as a driver, this Court is of the view that the “Loss of Income” has to be for a period of two months and hence, the award of the Tribunal under the head “Loss of Income” is enhanced from Rs.10,000/- to Rs.20,000/-. As regards to the award of the Tribunal under the head “Pain and Suffering”, this Court is of the view that the same may be enhanced from Rs.10,000/- to Rs.20,000/-. 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 or reduced
1.	Loss of Income	10,000/-	20,000	enhanced
2.	Pain and Suffering	10,000/-	20,000	enhanced
	Total	20,000	40,000	Enhanced by Rs.20,000/-

11. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.20,000/- is hereby



enhanced to Rs.40,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit (excluding the default period, if any). The appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation. The respondent/ Transport Corporation is directed to deposit the modified award amount along with interest and costs, less the amount already deposited if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant is permitted to withdraw their respective shares of the award amount along with proportionate interest and costs, after adjusting the amount if any, already withdrawn. No costs.

20.07.2023

Index: Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
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To

- 1.The Motor Accident Claims Tribunal /
Principal Special Judge,
Special Court under EC and NDPS Act, Chennai.
- 2.The Section Officer
VR Section, High Court of Madras.



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SUNDER MOHAN,J.

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