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C.M.A.No.384 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2023

CORAM:

MR. JUSTICE N.SESHASAYEE

C.M.A.No.384 of 2022

V.Manoharan

... Appellant

Vs.

The Managing Director
T.N.S.T.C. Limited
Salem Division - II
Bharathipuram
Dharmapuri District

... Respondent

PRAYER: This Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 07.09.2021 made in M.C.O.P.No.474 of 2015 on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Judge, Dharmapuri.

For petitioner : Mr.V.Sakkarapani

For respondent : Mr.D.Nithin

JUDGMENT

The appellant suffered multiple injuries when the bus he was travelling as a passenger met with an accident on 20.01.2015. The appellant was admitted in



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the hospital for 13 days. He is stated to be running a snackbar under the name and style of Uma Maheswari Snacks Company, for which he was issued Ex.P.5, a licence by Tamil Nadu Food Safety and Drug Administrative Department. He had also incurred a total medical expenditure of Rs.7,03,000/-. His disability was assessed at 35% and the Tribunal did not choose to treat it as a functional disability. In the end, the Tribunal had passed an award for a sum of Rs.9,23,000/-. The break up is as below:

<i>Sl.No.</i>	<i>Head</i>	<i>Amount (Rs.)</i>
1	<u>Loss of Earnings</u> (1) During the period of treatment (monthly income 6 x Rs.10,000/-) (2) Loss of future earning on account of Permanent Disability (35% x Rs.3,000/-)	Rs. 60,000/- Rs.1,05,000/-
2	<u>Medical Expenses</u> (1) Expenses relating to Hospitalization, treatment and Medicines. (2) Future Medical expenses	Rs.7,03,000/- -
3	Pain and sufferings (grievous injury 15 x Rs.3,000/-)	Rs. 45,000/-
4	Extra Nourishment	Rs. 10,000/-
	Total	Rs.9,23,000/-

Dissatisfied with the quantum of compensation awarded, the claimant had preferred this appeal.



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2.Heard both sides.

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3.The learned counsel for the appellant / claimant submitted that the claimant was earning not less than a lakh from his business, but the Tribunal has fixed the income notionally at Rs.10,000/-. This apart, for the kind of injuries which the claimant had suffered all over the body, the Tribunal had fixed only Rs.3,000/- for every percentage of disability when it ought to have treated the nature of injury as functional disability. This apart, for all the suffering he had undergone the Tribunal had not awarded anything for assistance, loss of amenities and awarded a paltry sum of Rs.10,000/- for extra nourishment. He submitted that each of the heads, compensation must be reasonably raised.

4.Per contra, the learned counsel for the respondent submitted that if only the appellant was earning a lakh as his monthly income from his business, then necessarily he would be an income tax assessee, but the appellant had not produced any documents to show his taxable income.

5.The Appellant was 45 years at the relevant time when the accident took place. From the look of the photographs circulated before the Court, he does not look impoverished. Which implies, he should be making a reasonable income, and



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this Court accordingly fixes the monthly income during the treatment period at

Rs.13,000/-. So far as permanent disability is concerned, this Court considered it and awarding a sum of Rs.5,000/- for every percentage of disability which would be appropriate. For extra nourishment Rs.27,000/-. For assistance another Rs.10,000/- and for Transportation Rs.10,000/-.

<i>Sl. No.</i>	<i>Amount granted by the Tribunal</i>	<i>Amount modified by this Court</i>	<i>Final amount granted by this Court</i>
1.	<u>Loss of Earnings</u> (1) During the period of treatment (monthly income $6 \times$ Rs.10,000/-) (Rs.60,000/-) (2) Loss of future earning on account of Permanent Disability ($35\% \times$ Rs.3,000/-) Rs.1,05,000/-	<u>Loss of Earnings</u> (1) During the period of treatment (monthly income $6 \times$ Rs.13,000/-) (Rs.78,000/-) (2) Loss of future earning on account of Permanent Disability ($35\% \times$ Rs.5,000/-) Rs.1,75,000/-	Rs. 78,000/- Rs.1,75,000/-
2	<u>Medical Expenses</u> (1) Expenses relating to Hospitalization, treatment and Medicines (Rs.7,03,000/-) (2) Future Medical expenses	-	Rs.7,03,000/- -
3	Pain and sufferings (grievous injury $15 \times$ Rs.3,000/-)	-	Rs. 45,000/-
4	Extra Nourishment (Rs.10,000/-)	Extra Nourishment (Rs.27,000/-)	Rs. 27,000/-
5	-	For Assistance	Rs. 10,000/-
6	-	For Transportation	Rs. 10,000/-
Total	Rs.9,23,000/-	<u>Enhanced to Rs.1,25,000/-</u>	Rs.10,48,000/-



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6. In the result, this Civil Miscellaneous Appeal is partly allowed as follows:-

(i) The award of the Tribunal is enhanced to 10,48,000/- from Rs.9,23,000/-.

(ii) The interest granted by the Tribunal at 7.5% per annum is confirmed.

(iii) The respondent / State Transport Corporation is directed to pay the compensation amount of Rs.10,48,000/- (Rupees Ten Lakhs Forty Eight Thousand only) to the claimant with 7.5% interest from 24.07.2015, the date of filing of the petition to till the date of realisation, to the credit of M.C.O.P No.474 of 2015 on the file of the Motor Accidents Claims Tribunal, Principal Sub Judge, Dharmapuri, within a period of eight (8) weeks from the date of receipt of a copy of this order.

(iv) On such deposit, the appellant / claimant is entitled to withdraw the entire compensation as per existing rules on filing necessary application before the Tribunal, after the payment of court fee for the enhanced compensation if any.

(v) The Registry is directed to draft the decree only after the receipt of enhanced court fee.

(vi) The claimant is not entitled for any interest for the period of default, if any.



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(vii) Excess court fee paid, if any, shall be refunded to the claimant.

(viii) Other aspects of the Tribunal award shall stand unaltered.

(ix) There is no order as to costs.

02.11.2023

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Index : Yes / No

Neutral Citation

To.

The Motor Accidents Claims Tribunal
Principal Subordinate Judge
Dharmapuri.

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