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C.M.A.No.1549 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

C.M.A.No.1549 of 2023

Nagarajan @ Nagaraj

Appellant

Vs

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

Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the Judgment and Decree in M.C.O.P.No.5233 of 2014 dated 05.09.2018 on the file of the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai.

For appellant : Mr.K.Varadhakamaraj

For Respondent : Mr.Anton Dhanasekaran

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant challenging the quantum of compensation granted by the



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Tribunal in the award dated 05.09.2018, made in M.C.O.P.No. 5233 of 2014 on the file of the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai.

2. The appellant filed M.C.O.P.No.5233 of 2014 on the file of the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai, claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by him in the accident that took place on 10.02.2014.

3. According to the appellant, on 10.02.2014 at about 12.15 hours, while he was riding his two wheeler on a public road, the bus belonging to the respondent /Corporation came in a rash and negligent manner, dashed against the two wheeler ridden by the petitioner; and as a result of which, the appellant sustained grievous injuries.

4. The learned counsel appearing for the respondent filed a counter stating that the accident took place only due to the negligence of the appellant; that the appellant, under the influence of alcohol, rode the two wheeler in a zigzag manner without observing traffic rules; therefore, the appellant contributed to the accident as he was attempted to overtake the



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bus, lost the control and dashed against the bus; therefore, the respondent is not liable to pay any compensation; and in any event, the compensation claimed by the appellant was excessive and prayed for dismissal of the claim petition.

5.Before the Tribunal, the appellant examined himself as P.W.1 and Dr.Saravanabavanantham was examined as P.W.2 and marked nine documents as Exs.P1 to P9. On the side of the respondent, the driver of the bus was examined as R.W.1 and did not marked any documentary evidence.

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 and directed the respondent to pay a sum of Rs.1,61,000/- as compensation to the appellant.

7. Aggrieved by the said order, the appellant has preferred the present appeal seeking enhancement of compensation.



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8.The learned counsel for the appellant submitted that the compensation awarded by the Tribunal under the heads disability, transportation and nourishing food and loss of amenities are meagre and prayed for enhancement of the same.

9.Per contra, the learned counsel for the respondent submitted that the appellant under the influence alcohol, rode the two wheeler in a rash and negligent manner and invited the accident. In such circumstances, the award of the Tribunal is just and reasonable and no interference is called for. Therefore, he prayed for dismissal of the appeal.

10. The only question involved in the instant appeal is:

Whether the compensation awarded by the Tribunal is just and reasonable?

11. On perusal of the records, it is seen that the appellant was examined by P.W.2, Private Doctor, who assessed the disability at 30%. The appellant was treated as in-patient at Rajiv Gandhi Government General Hospital, Chennai from 10.02.2014 to 19.02.2014. Considering the nature of injuries, the Tribunal found that the disability can be



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assessed at 20%. Since P.W.2 was a private Doctor and the appellant did not subject himself for examination by the Medical Board, the Tribunal was right in reducing the disability to 20%. Hence, no interference is called for in the said finding. However, since the accident took place in the year 2014, the appellant would be entitled to Rs.4,000/- per percentage for disability. Thus, the compensation awarded by the Tribunal towards disability is enhanced to Rs.80,000/- (Rs.4,000/- X 20%). The amount of compensation granted by the Tribunal towards transportation and extra nourishing food is meagre and hence, the same is hereby enhanced to Rs.20,000/-. Similarly, the compensation under the head loss of amenities at 20,000/- is also meagre and hence, the same is hereby enhanced to Rs.30,000/-. The amounts awarded by the Tribunal under all other heads are just and reasonable and hence, the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Transportation and nourishing food	10,000/-	20,000/-	Enhanced



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2.	Attender charges	5,000/-	5,000/-	Confirmed
3.	Medical expenses	5,000/-	5,000/-	Confirmed
4.	Disability	60,000/-	80,000/-	Enhanced
5.	Loss of earning	21,000/-	21,000/-	Confirmed
6.	Damages for pain, suffering and trauma	40,000/-	40,000/-	Confirmed
7.	Loss of amenities	20,000/-	30,000/-	Enhanced
	Total	1,61,000/-	2,01,000/-	Enhanced by Rs.40,000/-

11. With the above modification, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,61,000/- is hereby enhanced to Rs.2,01,000/- together with interest at 7.5% per annum (excluding the default period, if any) 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, less the amount already deposited, if any, within a period of six (6) weeks from the date of a receipt of copy of this Judgment. On such deposit, the appellant is permitted to withdraw the the award amount, now determined by this Court, along with proportionate interest and costs, less the amount if any, already withdrawn. The



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appellant is directed to pay the necessary Court Fee, if any, on the enhanced award amount. No costs.

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To:

1.The Motor Vehicle Accident Tribunal,
IV Small Causes Court, Chennai.

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



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SUNDER MOHAN, J.

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