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C.M.A.No.1853



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.04.2023

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

C.M.A.No. 1853 of 2021

Praveen Kumar

...Appellant

Vs.

The Managing Director,
Metro Transport Corporation,
Pallavan House,
Anna Salai, Chennai-2

... Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 to enhance the amount awarded in MCOP.No.246 of 2016 dated 28.02.2019 on the file of Motor Accident Claims Tribunal, (Subordinate Judge), Poonamallee.

For Appellant : Mr.K.Varadha Kamaraj

For Respondent : Mr.A.Vinothraj

JUDGMENT

This appeal is filed against the judgment and decree dated 28.02.2019 passed in MCOP.No.246 of 2016 on the file of Motor Accident Claims Tribunal, (Subordinate Judge), Poonamallee. This appeal is filed by the appellant who was the claimant before the claim Tribunal seeking enhancement of compensation.



2. The parties are referred to as per their rankings in the Tribunal for the sake of convenience.

3. On 18.01.2016, while the claimant was travelling as pillion rider in a motor cycle, a bus belonging to the Transport Corporation driven by its driver in a rash and negligent manner, hit the motorcycle causing severe injuries to the claimant. The claimant was aged 19 years at the time of accident and was a 11th std student. The claimant filed claim petition claiming Rs.15,00,000/- as compensation for the injuries sustained by him in the motor accident before the Claims Tribunal. The claim petition was contested by the Transport Corporation which filed a counter denying negligence and quantum of compensation. The claimant examined himself as PW1 and marked Ex.P1 to Ex.P12. On the side of the respondent, one witness was examined and two documents were filed. The disability certificate was marked as Ex.X1. The Claims Tribunal, on assessment of entire evidence on record, awarded a sum of Rs.11,43,234/- along with 7.5 interest as compensation. Not satisfied with the compensation, the claimant has filed the above appeal for enhancement.



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4. The learned counsel for the appellant submitted that considering the nature of disability sustained by the claimant in the accident, the Claims Tribunal ought to have awarded a reasonable sum towards loss of amenities even though the same was not prayed for as the claimant is entitled to fair and just compensation. The counsel relying on the judgment in the case of *M.Chinnathambi Vs. S.Deepa and another* reported in *2020 (1) TN MAC 617*, prayed that the amount of Rs.5,000/- may be fixed for per percentage of disability instead of Rs.3,000/- fixed by the Tribunal. The counsel submitted that the claimant was a 11th std student at the time of accident and he was hospitalised for over one month and therefore, the Tribunal ought to have awarded reasonable sum towards attendant charges. The counsel further submitted that the award of the Tribunal towards “transport” and “extra nourishment” may also be enhanced. Based on the said submissions, the counsel prayed that the award of the Tribunal may be enhanced.

5. The learned counsel for the respondent, on the other hand, submitted that amounts under various heads awarded by the Tribunal were fair and reasonable in the facts and circumstances of the case. The counsel therefore



submitted that there were no merits in the appeal and the same deserved to be dismissed.

6. I have heard both the learned counsels and perused the materials placed on record.

7. This Court in the case of *M.Chinnathambi Vs. S.Deepa and another* reported in **2020 (1) TN MAC 617**, fixed Rs.5,000/- per percentage of disability for accident of the year 2015. As the accident in the present case occurred in 2015, I am of the view that the claimant is entitled to Rs.5,000/- per percentage of the disability. The Tribunal ought to have awarded reasonable sums towards “attendant charges” and “loss of amenities” even though, the claimant had not made any claim towards the said heads because the claimant who was a 11th standard student and was hospitalised for more than one month for treatment of injuries. The award of the Tribunal is therefore modified as follows:



<i>S.No</i>	<i>Various Heads</i>	<i>Awarded by the Tribunal</i>	<i>Awarded by this Court</i>
1.	Injury	Rs.90,000/-	Rs.1,50,000/-
2.	Transportation	Rs.10,000/-	Rs.25,000/-
3.	Loss of Income	NIL	NIL
4.	Pain & Suffering	Rs.2,00,000/-	Rs.2,00,000/-
5.	Extra nourishment	Rs.10,000/-	Rs.25,000/-
6.	Medical bills	Rs.8,33,234/-	Rs.8,33,234/-
7.	Loss of Amenities	NIL	Rs.1,00,000/-
8.	Attendant charges	NIL	Rs.10,000/-
	Total	Rs.11,43,234/-	Rs.13,43,234/-

9. The amount awarded by the Tribunal is thus modified to Rs.13,43,234/- (enhancing Rs.2,00,000/-). The claimant shall be entitled to enhanced compensation of Rs.13,43,234/- along with 7.5% interest. The learned counsel for the respondent submits that the entire award amount was deposited. Therefore, the respondent/Transport Corporation is directed to deposit the balance enhanced amount of Rs.2,00,000/- with 7.5% interest from the date of the claim petition till the date of payment within a period of six (6) weeks from the date of receipt of a copy of the order. The appellant/claimant shall thereafter be permitted to withdraw the same by filing appropriate application before the Claims Tribunal.



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10. In the result, this Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs in the present appeal.

28.04.2023

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Speaking Order: Yes/No

Index: Yes/No

Neutral Citation: Yes/No



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To

- 1.Motor Accident Claims Tribunal,
(Subordinate Judge), Poonamallee.
- 2.The Managing Director,
Metro Transport Corporation,
Pallavan House,
Anna Salai, Chennai-2



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N.MALA, J

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