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C.M.A.No.2194 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE A.A. NAKKIRAN

Civil Miscellaneous Appeal No.2194 of 2018

B. Appu

.. Appellant

Versus

The Managing Director
Tamil Nadu State Transport Corporation Limited,
(Villupuram Division – III) Limited,
No.3/137, Salamedu, Vazhuthareddy Post,
Villupuram Taluk – 605 01

.. Respondent

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 01.02.2016 made in M.C.O.P.No.6177 of 2012 on the file of the Motor Accident Claims Tribunal, IV Judge, Small Causes Court, Chennai.

For Appellant	:	Ms.A.Subadra
For Respondent	:	Mr. S.S. Santhosh Kumar, Standing Counsel

JUDGMENT

This Civil Miscellaneous Appeal is filed by the injured claimant against the award dated 01.02.2016 made in M.C.O.P.No.6177 of 2012 on the file of the Motor Accident Claims Tribunal, IV Judge, Small Causes Court, Chennai.



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respondent is not liable to pay any compensation to the appellant. It is also stated that the claim under various heads are not sustainable and prayed for dismissal of the claim petition.

5. Before the Tribunal, in order to prove his claim, the claimant examined himself as P.W.1 and Dr.J.R.R.Thiagarajan was examined as P.W.2. The claimant also marked 14 documents as Exs.P1 to P14 on his side. On the side of the respondent-transport corporation, neither oral nor documentary evidence has been adduced.

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-Transport Corporation to pay a sum of Rs.12,32,000/- as compensation to the appellant/claimant.

7. Not being satisfied with the amount awarded by the Tribunal towards compensation, the appellant has come out with the present appeal seeking enhancement of compensation. The Transport Corporation has not filed any appeal against the award passed by the Tribunal.



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8. Ms.A. Subadra, learned counsel appearing for the appellant contended that at the time of accident, the injured claimant was aged 26 year and was running a studio under the name and style of Appu Studio as Proprietor cum Photographer and earning a sum of Rs.25,000/- per month. But, the Tribunal fixed a meagre sum of Rs.6,500/- per month as notional income of the appellant. The Tribunal ought to have fixed a sum of Rs.7,500/- as monthly income of the deceased as claimed by the appellant and awarded compensation. It is further submitted that the appellant is entitled for future prospects, but the Tribunal has not granted any amount towards future prospects. The amount awarded by the Tribunal under different heads are very meagre and prayed for enhancement of compensation.

9. Per contra, Mr.S.S. Santhosh Kumar, learned Standing Counsel appearing for the respondent-Transport Corporation contended that in the absence of any material evidence to prove the avocation and income, the monthly income fixed by the Tribunal at Rs.6,500/- is not meagre. The Tribunal accepted the disability of the appellant at 70% as assessed by P.W.2-Doctor and adopted multiplier method for awarding compensation towards loss of income. Therefore, the appellant is not entitled to any enhancement. The amount awarded by the Tribunal under different heads are not meagre and



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10. Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the respondent-Transport Corporation and perused the entire materials on record.

Points for consideration is as follows:

Whether the appellant is entitled to enhanced as prayed for?

11. From the award passed by the Tribunal, it is seen that the appellant was aged 26 years at the time of accident. He claimed that he was earning a sum of Rs.25,000/- per month. Except the oral evidence of the appellant, he has not filed any document to prove his avocation and income. In the absence of any document with regard to avocation and income, the Tribunal, considering the age and nature of work of the injured appellant, fixed a sum of Rs.6,500/- per month as notional income. The accident was of the year 2012. The cost of living has increased enormously and salary of even unskilled workers has increased substantially. Hence, a sum of Rs.7,500/- per month as claimed by the appellant is fixed as notional income. However, considering the fact that the injured sustained grievous injuries and got 70% disability, while applying multiplier '17', the Tribunal though awarded a sum of Rs.9,28,200/-, unfortunately, has completely ignored to add future prospects.



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Therefore, this Court feels it appropriate to add 40% towards future prospects and thereby the award under the head 'functional disability' is assessed as Rs.14,99,400/- {Rs.7,500/- + Rs.3,000/- (40% of Rs.7,500/-) X 12 X 17 X 70/100}.

12. Due to the injuries suffered by the appellant, he would not have attended to his work atleast for a period of six months. Hence, a sum of Rs.45,000/- (Rs.7,500/- X 6 months) is awarded towards loss of income.

13. The compensation awarded by the Tribunal under other heads are just and reasonable and hence, they are confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:



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<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Amount awarded by this Court (Rs.)</i>	<i>Award confirmed or enhanced or granted or reduced</i>
Functional Disability	9,28,200/-	14,99,400/-	Enhanced
Pain and suffering	1,00,000/-	1,00,000/-	Confirmed
Extra Nourishment	10,000/-	10,000/-	Confirmed
Transport to Hospital	20,000/-	20,000/-	Confirmed
Damages to clothes	1,000/-	1,000/-	Confirmed
Attender Charges	10,500/-	10,500/-	Confirmed
Medical Expenses	13,000/-	13,000/-	Confirmed
Future Medical Expenses	10,000/-	10,000/-	Confirmed
Loss of Income	39,000/-	45,000/-	Enhanced
Loss of Amenities	1,00,000/-	1,00,000/-	Confirmed
Total	12,31,700/- rounded off to Rs.12,32,000/-	18,08,900/- rounded off to Rs.18,09,000/-	Enhanced by Rs.5,77,000/-

14. The points for consideration is answered accordingly and in the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.12,32,000/- is hereby enhanced to Rs.18,09,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. 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 enhanced award amount now determined by this Court along with interest and costs, less the amount already deposited if any, within a period of twelve weeks from the date of receipt of a



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copy of this judgment. On such deposit, the appellant is permitted to withdraw the enhanced award amount, along with interest and costs, less the amount if any, already withdrawn. No costs.

01.03.2023

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Index : Yes / No
Internet : Yes / No



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To

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

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



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