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C.M.A.No.2080 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

C.M.A.No.2080 of 2023

Kannan

... Appellant

Versus

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
No.3/137, Salamedu, Vazhuthareddy,
Villupuram

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 09.10.2018 passed in M.A.C.T.O.P.No.830 of 2017, on the file of the Motor Accident Claims Tribunal, Special Sub Court, Tiruvannamalai.

For Appellant : Mr.S.Vasumathi

For Respondent : S.S.Santhosakumar

JUDGMENT

This appeal has been filed by the claimant seeking enhancement of compensation awarded by the Tribunal in M.A.C.T.O.P.No.830 of 2017, dated 09.10.2018.



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2.The appellant filed the claim petition stating that on 07.02.2013

at about 07.50 a.m., while he tried to get down from the bus belonging to the respondent Corporation at the bus stop, the driver of the bus started the bus in a rash and negligent manner; that as a result of which, he fell down and sustained multiple fractures in the left foot, left ankle and injuries all over the body; and that hence, he was entitled for compensation.

3.The respondent resisted the said claim petition stating that the appellant got down from the running bus and invited the accident; that therefore, the respondent was not liable to pay any compensation; that in any case, the claim made by the appellant was excessive and disproportionate to the loss caused due to the accident and prayed for dismissal of the claim petition.

4.The appellant examined himself as P.W.1 and marked as Ex.P1 to Ex.P5 on his side. The respondent examined RW1/driver of the bus and did not mark any document.



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WEB COPY 5.The Tribunal on consideration of the evidence on record, awarded the compensation of Rs.1,25,000/- to the appellant.

6.The learned counsel for the appellant submitted that the Medical Board had found that the injuries are grievous in nature and assessed the disability as 20% partial permanent disability; that the Tribunal therefore, ought to have adopted multiplier method to award compensation and prayed for enhancement of compensation.

7.The learned counsel for the respondent per contra submitted that the appellant had neither proved the avocation nor the income and hence the Tribunal was right in holding that the functional disability was not established by the appellant and awarded compensation by adopting percentage method and hence, prayed for dismissal of the appeal.

8.The only question involved in the instant appeal is whether the compensation awarded by the Tribunal is just and reasonable?



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9. On perusal of records, it is seen that the appellant sustained fractures in the left foot and the Metatarsal bone and the Medical Board assessed disability as 20% partial permanent disability. The appellant had deposed that he was working as a mason. Considering the nature of the injuries, age and avocation of the appellant, this Court is of the view that the appellant would have suffered functional disability and the same can be assessed as 10%. The appellant had not produced any proof of his income. Considering the age and year of accident, this Court is of the view that it would be just and reasonable to fix the notional income at Rs.9000/- per month. The appellant was aged about 63 years at the time of accident and the multiplier applicable is 7. Thus, the appellant would be entitled to compensation under the head disability in the following manner:-

$$\text{Rs.9,000/-} \times 12 \times 7 \times 10/100 = \text{Rs.75,600/-}.$$

The amount awarded by the Tribunal under the other heads is just and reasonable and is confirmed. Thus, the award of the Tribunal is modified as follows:



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S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Disability	60,000	75,600	Enhanced
2.	Pain and Sufferings	25,000	25,000	Confirmed
3.	Loss of earning during the treatment period	30,000	30,000	Confirmed
4.	Transportation	5,000	5,000	Confirmed
5.	Extra Nourishment	5,000	5,000	Confirmed
	Total	1,25,000	1,40,600	Enhanced by Rs.15,600/-

10. With the above modification, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,25,000/- is hereby enhanced to Rs.1,40,600/- 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 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 entire award amount. Further, the appellant is not entitled to the interest for the delay period of 1291 days as ordered by this Court in C.M.P No.9844 of 2022 in



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C.M.A.Sr.No.61716 of 2022. The appellant is directed to pay the necessary Court fee, if any on the enhanced award amount. No costs.

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rst/dpa

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To:

- 1.The Special Sub Court,
The Motor Vehicle Accident Tribunal,
Tiruvannamalai.
- 2.The Section Officer,
VR Section,
High Court, Madras.



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SUNDER MOHAN, J.

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