



C.M.A.No.2144 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment reserved on: 13.03.2023	Judgment delivered on: 12.07.2023
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CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A.No.2144 of 2014

M.Ramalingam

.. Appellant

Vs.

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan Salai,
Chennai – 600 002.

.. Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 20.12.2012 made in M.C.O.P.No.2129 of 2009 on the file of the Motor Accidents Claims Tribunal, II Small Causes Court, Chennai.

For Appellant : Mr.K.Varadha Kamaraj

For Respondent : Mr.S.Sivakumar

J U D G M E N T

Not being satisfied by the compensation awarded by the Motor Accidents Claims Tribunal / II Small Causes Court, Chennai, in



M.C.O.P.No.2129 of 2009 on 20.12.2012, the appellant / claimant has preferred this Civil Miscellaneous Appeal for enhancement of compensation.

2.The claim petition was filed under Section 166 of the Motor Vehicles Act, 1988, and Rule 3 of TNMACT Rules, claiming compensation of Rs.6,00,000/- for the injuries sustained by him in the motor accident that occurred on 14.05.2009.

3.The learned Tribunal after hearing both sides arguments and upon considering the oral and documentary evidence has granted compensation for an amount of Rs.95,000/-, along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit.

4.Mr.K.Varadha Kamaraj, learned counsel for the appellant would contend that the Tribunal erroneously reduced the percentage of disability of the appellant from 25% to 20% and granted compensation only for 20% disability. The compensation awarded by the Tribunal for disability and pain and sufferings appears to be on the lower side. He would further contend that the amounts awarded by the Tribunal towards transportation, extra



nourishment, loss of income and damages to vehicle are very less. The Tribunal failed to grant any amount towards attendant charges and future medical expenses and prayed for enhancement of compensation.

5.Per contra, Mr.S.Sivakumar, learned counsel for the respondent – Transport Corporation would vehemently argue that P.W.2 – Doctor himself admits that he has not treated the appellant and hence, the Tribunal considering the same has rightly reduced the percentage of disability from 25% to 20% and granted compensation for 20% disability. Further, in the absence of any documentary proof for his income, the Tribunal fixed a sum of Rs.4,500/- per month as notional income of the appellant and granted compensation for loss of income for two months and the same is not meagre. The amounts awarded by the Tribunal under other heads are also not meagre and hence need not be interfered with and prayed for dismissal of the appeal.

6.Heard the learned counsel for the appellant and the learned counsel for respondent – Transport Corporation and perused the materials available on record.



7.From the evidence of appellant / P.W.1, it transpires that on 14.05.2009 at about 09.30 hours, when he was driving the van bearing Registration No.TN 01 E 3798 very slowly from Kandigai to Vandalloor Zoo on the Kelambakkam Road, opposite to Balaji Polytechnic near Kolapakkam, a bus bearing Registration No.TN 01 N 5906 came in a rash and negligent manner and hit behind the said van and due to the said impact, the appellant sustained injuries, is not in dispute.

8.It is the evidence of P.W.1 / appellant that he was Driver-cum-Owner of the van and was earning a sum of Rs.8,000/- per month and produced Ex.P6 – copy of driving license and Ex.P7 – copy of RC book and permit of the van to prove his avocation and income. In the absence of any documentary proof to prove the avocation and income, the Tribunal fixed a sum of Rs.4,500/- as monthly income of the appellant.

9.For fixation of monthly income when no proof for income was filed, the Hon'ble Apex Court in the case of ***Syed Sadiq vs. Divisional Manager, United India Insurance***, reported in [2014 1 TNMAC 459 (SC)] has fixed the notional income of an injured who was aged 24 years at the time of



accident, who was a Vegetable Vendor as Rs.6,500/- per month for the accident that occurred in the year 2008.

10.Considering the year of accident, age and nature of work done by the appellant, a sum of Rs.7,500/- is fixed as notional income of the appellant per month. Due to the injuries and fracture, he would not have attended his work for four months. Thus, he is entitled to a sum of Rs.30,000/- (Rs.7,500/- X 4 months) towards loss of income.

11.It could be seen from Ex.P5 – Medical Treatment Record issued by the Parvathy Hospital, Chennai, the appellant / claimant had taken treatment on 14.05.2009 and the appellant sustained irregular laceration over parietal occipital region with skin loss and mild compression fracture D7 and D8. Considering the nature of injuries and treatment underwent by the appellant, a sum of Rs.5,000/- is granted in addition to the amount already awarded by the Tribunal towards medical expenses.

12.P.W.2 – Doctor has deposed that he examined the appellant clinically and on the basis of discharge summary, he assessed the disability of



the appellant as 25% partial permanent disability and deposed that the appellant is facing difficulty to stand for long time, to sit and there is pain and swelling at hip and movements restricted. Further, P.W.2 admits that he did not give treatment to the appellant. The Tribunal considering the same, fixed the disability of the appellant at 20% and awarded a sum of Rs.40,000/- towards disability and the same appears to be acceptable and reasonable.

13.As far as quantum of compensation towards pain and sufferings and extra nourishment are concerned, the amounts awarded by the Tribunal appears to be on the lower side and hence, the same are enhanced to Rs.15,000/- and Rs.7,000/- respectively.

14.The Tribunal failed to award any amount towards loss of amenities and attendant charges. This Court grants a sum of Rs.5,000/- towards loss of amenities and Rs.8,000/- towards attendant charges

15.In all other aspects, the amounts awarded by the Tribunal appears to be reasonable and hence, the same needs no interference.



16.Thus, the compensation awarded by the Tribunal is modified and tabulated as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Disability	40,000/-	40,000/-	Confirmed
2.	Medical bills	5,000/-	10,000/-	Enhanced
3.	Pain and sufferings	10,000/-	15,000/-	Enhanced
4.	Extra nourishment	2,000/-	7,000/-	Enhanced
5.	Transportation	4,000/-	4,000/-	Confirmed
6.	Loss of income	9,000/-	30,000/-	Enhanced
7.	Damage to vehicle	25,000/-	25,000/-	Confirmed
8.	Loss of amenities	-	5,000/-	Granted
9.	Attendant charges	-	8,000/-	Granted
	Total	Rs.95,000/-	Rs.1,44,000/-	Enhanced by Rs.49,000/-

17.In the result,

17(i).This Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.95,000/- is hereby enhanced to Rs.1,44,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit.

17(ii).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 eight weeks from



the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.2129 of 2009 on the file of the Motor Accidents Claims Tribunal, II Small Causes Court, Chennai.

17(iii).On such deposit, the appellant / claimant is permitted to withdraw the award amount now determined by this Court along with interest and costs, less the amount if any already withdrawn by filing necessary cheque application to withdraw the amount before the Tribunal. No costs.

12.07.2023

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

1.The II Judge,
Motor Accidents Claims Tribunal,
Small Causes Court,
Chennai.

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

R.KALAIMATHI, J.



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