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CMA.No. 69 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2023

CORAM:

THE HON'BLE MRS. JUSTICE N. MALA

Civil Miscellaneous Appeal No. 69 of 2022

A.Hussian Babu

... Appellant

Versus

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
No. 37, Mettupalayam Road
Coimbatore.

... Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 20.03.2020 in MCOP.No. 21 of 2014 on the file of the Motor Accident Claims Tribunal, Principal Sub Court, Namakkal.

For Petitioner : Mr. Ma.P. Thangavel
For Respondent : Mr. M. Murali Vinodh



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JUDGMENT

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The above appeal is filed by the claimant seeking enhancement of compenation.

2. On 28.01.2014, while the claimant was travelling in the respondent/Transport Corporation bus from Namakkal to Erode, the driver of the bus drove the vehicle in a rash and negligent manner, dashed against the lorry which came in the opposite direction and caused the accident. Due to the impact, the claimant suffered multiple grievous injuries. Therefore, the claimant filed the claim petition claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by him in the accident.

3. Before the Claims Tribunal, the respondent/Transport Corporation contested the claim petition by filing a detailed counter affidavit, wherein the negligence and quantum of compensation claimed in the claim petition were denied.

4. Before the Claims Tribunal, the claimant examined himself as PW1 and two other witnesses were examined as PW2 and PW3. Exs.P1 to

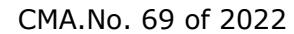


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Ex.P7 were marked in support of the claim. On the side of the respondent/Transport Corporation, no oral or documentary evidence was adduced.

5. The Claims Tribunal on an assessment of the entire evidence on record, rendered a finding of negligence against the driver of the respondent/Transport Corporation bus. The Claims Tribunal assessed the compensation at Rs.36,584/- along with 7.5% interest. Not satisfied with the award passed by the Tribunal, the claimant has filed the above appeal for enhancement of compensation.

6. The learned counsel for the appellant submitted that the Claims Tribunal having assessed the “permanent disability” at 20% as per Ex.P10 issued by PW3, ought to have awarded Rs.3,000/- per percentage of disability. The learned counsel further submitted that the rejection of the medical bills of Rs.28,810/- was erroneous. The counsel submitted that the claimant was entitled to Rs.33,084 towards “medical expenses”. The Counsel further submitted that the award of the Tribunal under the other heads were also very meagre and the same deserved to be enhanced.



9. It is seen that under Ex.P4 discharge summary, the claimant was hospitalised for ten days for the period from 28.01.2014 to 06.02.2014. The medical bills and prescriptions were marked as Ex.P5 and Ex.P6. Therefore, I find justification in the submission of the learned counsel for the appellant that the Tribunal erred in thinking that the medical bills were not supported by prescription. Hence, the claimant shall be entitled to Rs.33,084/- towards “hospitalization and Medicines”. Considering the nature of injuries and the period of treatment undergone by the claimant, I am of the view that the compensation towards “Pain and Suffering”, and “Extra Nourishment” deserves to be enhanced. As the claimant was hospitalized for more than 10



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days, Rs.5,000/- is awarded towards “transport charges”.

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10. In view of the above discussion, the award of the Tribunal is modified as follows:-

<i>Sl.No.</i>	<i>Heads under which the amount is awarded</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Amount awarded by this court (Rs.)</i>
1	Loss of future earning on account of permanent disability at 20%	14,000	60,000
2	Hospitalization and Medicines	4,474	33,084
3	Future Medical Expenses	10,110	10,110
4	Pain and Suffering	5,000	10,000
5	Extra Nourishment	3,000	5,000
6	Transport	---	5,000
	Total	36,584	1,23,194

11. The claimant shall be entitled to enhanced compensation amount of Rs.1,23,194/- along with 7.5% interest. It is submitted by the learned counsel for the appellant that exemption from payment of court fee was granted by this Court. The claimant is directed to deposit the court fee on the enhanced compensation amount of Rs.1,23,194/-. Registry is directed not to draft the decree till the Court Fee is paid.



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12. The respondent/Transport Corporation is directed to deposit the enhanced compensation amount of Rs.1,23,194/- along with 7.5% interest from the date of the petition till the date of deposit within a period of 6 weeks from the date of receipt of this judgment, less the amount, if any, already deposited before the Tribunal. On such deposit being made, the claimant shall be entitled to withdraw the same by making appropriate application before the Tribunal.

13. In the result, the Civil Miscellaneous Appeal is partly allowed.

There shall be no order as to costs.

20.06.2023

Index: Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

MSM

To

1. The Principal Sub Court,
Motor Accident Claims Tribunal, Namakkal.
2. The Section Officer, V.R. Section, High Court, Madras



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N. MALA, J

MSM

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