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CMA No. 1899 / 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Civil Miscellaneous Appeal No. 1899 of 2023

Jagadhesan

... Appellant

Versus

The Managing Director,
Tamil Nadu State Transport Corporation,
Salem Branch – 1, No.12, Ramakrishna Road,
Salem District – 636 007.

... Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P. No. 87 of 2013 dated 15.03.2023 on the file of the Motor Accidents Claims Tribunal / Subordinate Judge, Sangagiri.

For Appellant : Mr. T.S. Arthanareeswaran.

For Respondent : Mr. D. Nitin.

J U D G M E N T

The claimant has preferred the instant appeal seeking enhancement of compensation in the award passed by the Tribunal in M.C.O.P. No. 87 of 2013 dated 15.03.2023.



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2.The appellant filed the claim petition stating that on 13.03.2012 at about 07.45 p.m., while he was riding his two wheeler in a public road, a bus belonging to the respondent came in a rash and negligent manner and hit the vehicle of the appellant, as a result of which the appellant sustained grievous injuries.

3.The respondent filed a counter stating that the accident took place due to the negligence of the appellant; and that in any case, the compensation claimed was excessive and prayed for dismissal of the appeal.

4.The appellant examined himself as PW1 and marked Ex.P.1 to Ex.P.6. The respondent examined its driver as RW1 and marked Ex.R.1.

5.The Tribunal after taking into consideration the oral and documentary evidence held that the accident took place due to the rash and negligent driving of the driver of the bus insured with the second respondent and directed the respondent to pay a compensation of Rs.2,56,620/- to the appellant.



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6.The learned counsel for the appellant submitted that the appellant sustained nearly eight injuries out of which six injuries were grievous in nature as per the discharge summary issued by the hospital which is marked as Ex.P.5. The learned counsel further submitted that no amount was awarded under the head Attender Charges and compensation under the other heads are also meagre and prayed for enhancement.

7.Mr. D. Nitin, learned counsel took notice for the respondent and submitted that the appellant had not produced any document to show the disability suffered by him and he was not subjected to examination by Medical Board. In such circumstances, the compensation awarded by the Tribunal is just and reasonable and prayed for dismissal of the appeal.

8.The only question that arises for consideration in the instant appeal is whether the compensation awarded by the Tribunal is just and reasonable.

9.On perusal of the award passed by the Tribunal, it is seen that the appellant had sustained eight injuries as per Ex.P.5 discharge summary



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issued by the hospital which treated the appellant. Out of the said injuries, six injuries were found to be grievous in nature. Since the appellant was not subjected to examination by Medical Board and had not produced disability certificate issued by any Doctor, the Tribunal awarded a sum of Rs.50,000/- under the head Grievous injuries for the injuries suffered by the appellant. This Court is of the view that considering the nature of injuries, the compensation awarded under the said head can be enhanced to Rs.75,000/-. Further, the compensation awarded under the head Pain and sufferings is meagre and the same is enhanced to Rs.1,00,000/- considering the injuries suffered by the appellant. It is also seen that the appellant was in the hospital for nearly twelve days. However, the Tribunal had not awarded any compensation under the head Attender Charges. Hence, Rs.10,000/- is awarded under the said head. The award under the other heads are just and the same are confirmed. Thus, the award of the Tribunal is modified as follows;

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Grievous injuries	50,000	75,000	Enhanced
2.	Pain and sufferings	75,000	1,00,000	Enhanced
3.	Extra nourishment	15,000	15,000	Confirmed



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4.	Transportation	5,000	5,000	Confirmed
5.	Medical Expenses	1,11,620	1,11,620	Confirmed
6.	Attender Charges	---	10,000	Granted
	Total	2,56,620	3,16,620	Enhanced by Rs.60,000/-

10. With the above modification, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,56,620/- is hereby enhanced to Rs.3,16,620/- 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 eight (8) weeks from the date of a receipt of copy of this Judgment. On such deposit, the appellant is permitted to withdraw the award amount along with interest and costs, less the amount if any, already withdrawn. The appellant is directed to pay the necessary Court fee if any on the enhanced award amount. No costs.

25.09.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



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SUNDER MOHAN, J

To *ay*

1. Motor Accidents Claims Tribunal /
Subordinate Judge, Sangagiri.
2. The Section Officer,
V.R. Section,
High Court of Madras,
Chennai.

C.M.A. No. 1899 of 2023

Dated: 25.09.2023