



WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2023

CORAM:

The HONOURABLE MRS.JUSTICE N.MALA

C.M.A.No.853 of 2023

M.Mari
S/o Murugesan

... Appellant

Vs.

The Managing Director
Metropolitan Transport Corporation Ltd.,
Pallavan House,
Anna Salai,
Chennai.02.

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree dated 02.12.2019 made in M.C.O.P.No.5507 of 2016 on the file of the Motor Vehicle Accident Claims Tribunal, Principal Special Judge, Special Court under E.C and & NDPS Act, Chennai.

For Appellant : M/s.M.Punitha Nithya Rani

For Respondent : Mr.Anton Dhanasekaran

**JUDGMENT**

WEB COPY

M/s.M.Punitha Nithya Rani, the learned counsel appears for the appellant and Mr.Anton Dhanasekaran, the learned counsel appears for the respondent. With the consent of both the counsel, the main Appeal itself is taken up for disposal.

2. The appeal is filed by the claimant seeking enhancement of compensation. The claimant who was aged about 40 years, met with an accident on 09.08.2016 due to negligence of the Driver of the first respondent Transport Corporation bus. The claimant suffered grievous injuries like fracture on right leg, head injury and multiple injuries all over the body. The claimant was working as a coolie and earning a sum of Rs.10,000/- per month. The claimant therefore filed the claim petition claiming a sum of Rs.6,00,000/- as compensation.

3. The Transport corporation contested the claim petition by filing counter and denied all the claim averments apart from disputing the negligence and quantum of compensation claimed.

4. Before the claims Tribunal, the claimant examined himself as



claim. On the side of the respondent, the Driver of the Transport Corporation was examined and no document was marked.

5. Tribunal on an assessment of the entire evidence on record, returned a finding of negligence against the Driver of the Transport Corporation bus and awarded a sum of Rs.1,40,000/- along with interest at the rate of 7.5% per annum. Not satisfied with the quantum of compensation awarded by the Claims Tribunal, the claimant has filed the above appeal.

6. The learned counsel for the appellant/claimant submitted that though the disability was assessed at 40% by the Doctor who was examined as P.W.2, the Claims Tribunal had erroneously reduced the disability to 30%. The Tribunal adopted the unit method and awarded a sum of Rs.90,000/- at Rs.3,000/- per percentage of disability. The learned counsel submitted that as the accident took place in the year 2016 as the per the judgment of this Court, in ***M.Chinnathambi vs. S.Deepa, National Insurance Co. Ltd.***, reported in 2020 (1) TNMAC 617 (Mad), the Tribunal ought to have awarded Rs.5,000/- per percentage of disability, instead of Rs.3,000/- per percentage of disability. The learned counsel further submitted that the claimant was hospitalized for one



month for the treatment of his injuries and therefore, the Tribunal erred in not awarding any sum towards attender charges and transport charges.

The learned counsel further submitted that compensation awarded towards pain and suffering was very meagre, considering the nature of injuries sustained by the claimant. The learned counsel therefore submitted that the compensation awarded by the Tribunal deserved to be enhanced.

7. The learned counsel for the respondent on the other hand submitted that the total compensation of Rs.1,40,000/- along with interest at the rate of 7.5% interest per annum awarded by the Tribunal was just, fair, reasonable and commensurate with the nature of the injuries sustained by the claimant.

8. I have heard the learned counsel appearing on either side and perused the materials placed on record.

9. Admittedly, the accident took place on 09.08.2016 and therefore, in my view, following the judgment of this Court in ***M.Chinnathambi vs. S.Deepa, National Insurance Co. Ltd.***, reported in 2020 (1) TNMAC 617 (Mad), the claimant shall be entitled to Rs.5,000/-

for percentage of disability and therefore, the loss towards earning



capacity is fixed at Rs.1,50,000/-(30% x5000). From the discharge summary, Ex.P.2, it is seen that the claimant was admitted on 10.08.2016 and discharged on 06.09.2016. Considering the fact that claimant was hospitalized for almost one month, I am of the view that the Tribunal ought to have awarded reasonable sum towards transport charge and attender charges. The sum awarded towards pain and suffering is confirmed as additional amounts are granted under Transport Charges and attender Charges. In view of the above discussion, 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.	Partial Loss of Income	30,000/-	30,000/-	Confirmed
2.	Loss of Earning Capacity	90,000/-	1,50,000/-	Enhanced
3	Pain and Suffering	10,000/-	10,000/-	Confirmed
4	Loss of Amenities	10,000/-	10,000/-	Confirmed
5.	Transport Charges	—	10,000/-	Granted
6	Attender Charges	—	10,000/-	Granted
	Total	Rs.1,40,000/-	Rs.2,20,000/-	Enhanced by Rs.80,000/-



WEB COPY



N.MALA, J.

jai

10. The claimant is entitled for enhanced compensation of Rs.2,20,000/- along with interest at the rate of 7.5% per annum from the date of claim petition. The Transport Corporation, is directed to deposit the enhanced compensation of Rs.2,20,000/- along with accrued interest at the rate of 7.5% per annum, less the amounts already deposited, within a period of eight weeks from the date of receipt of copy of this order. On such deposit the claimant is permitted to withdraw the same by making proper application. Accordingly, this Civil Miscellaneous Appeal is partly allowed. No costs.

12.04.2023

jai

Index : Yes/No

Neutral Citation : Yes/No

To:

1.The Motor Accident Claims Tribunal,
Principal Special Judge,
Special Court under EC and NDPS Act,
Chennai.

2.The Section Officer,
VR Section,



High Court,
Madras.

WEB COPY

7



C.M.A.No.853 of 2023