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C.M.A.No.2531 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2024

CORAM:

**THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

C.M.A.No.2531 of 2021

G.Manikandan

... Appellant / petitioner

Vs.

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

... Respondent/Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award and Decree dated 17.07.2018, made in M.C.O.P.No.731 of 2015, on the file of learned Principal Special Judge, Special Court, under EC & NDPS Act, Chennai - 104.

For Appellant : Mr.K.V.Muthu Visakan

For Respondent : Mr.A.Vinothraj

**JUDGMENT**

This Civil Miscellaneous Appeal has been filed by the claimant seeking for enhancement of compensation awarded in M.C.O.P.No.731 of 2015, dated 17.07.2018, on the file of learned Principal Special Judge,



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Special Court, under EC & NDPS Act, Chennai - 104.

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2. The parties are referred to hereunder according to their litigative status and ranking before the Tribunal.

3. The case of the claimant is that on 11.11.2014 at about 20.10 hours, while the petitioner was crossing the road at Kamarajar Salai, opposite to Vivekanandar Illam, a car bearing Registration No.TN 01 N 5959 which belong to the respondent, coming in a rash and negligent manner and hit against the petitioner, due to which, the petitioner sustained grievous injuries. Hence, the claimant claims a sum of Rs.10 lakhs towards compensation.

4. The respondent - Transport Corporation has contested the claim on the ground that the compensation claimed based on the injury and disability sustained by the claimant is on the higher side and also stated that the accident had occurred only by the negligent act of the claimant and the driver of the Respondent Corporation was not responsible for the accident.



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5. The Tribunal, after considering the evidences placed on record, has held that the accident was occurred only due to the rash and negligent driving of the driver of the respondent Corporation, which resulted in causing injury to the claimant and that the Transport Corporation is liable to pay the compensation. The Tribunal has also quantified the compensation amount and awarded a sum of Rs.1,92,000/- along with interest at the rate of 7.5% per annum from the date of claim petition till the date of realization.

6. Aggrieved over the quantum of compensation awarded, the claimant has approached this Court seeking enhancement of compensation. The respondent - Transport Corporation has not filed any appeal for challenging the same.

7. Mr.K.V.Muthu Visakan, learned counsel for the claimant has submitted that the Tribunal has not properly appreciated the disability sustained by the claimant while awarding compensation towards permanent



disability and hence it is on lower side. Further, the loss of income during the treatment period has not been properly quantified. Hence the learned counsel for the claimant prays to enhance the compensation.

8. This has been resisted by Mr.A.Vinothraj, learned counsel for the Respondent / Transport Corporation on the ground that after assessing the evidence placed on record, the Tribunal has awarded compensation under various heads which is just and proper and the same does not require any enhancement and prays to confirm the award.

9. I have considered the rival submissions made on both sides and also perused the records.

10. While awarding compensation for permanent disability, the Tribunal, based on the opinion of the Doctors, who assessed the disability as 40%, has awarded a sum of Rs.3,000/- per percentage of injury and in total, Rs.1,20,000/- has been awarded.

11. On perusal of medical records, it is seen that it is non-functional



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disability and that Tribunal has applied percentage method. However,

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considering the year of accident and nature of injuries sustained by the claimant, this Court is inclined to enhance the amount from Rs.3,000/- to Rs.4,000/- per percentage of disability. In total the amount of Rs.1,20,000/- is hereby enhanced to Rs.(40X4000) Rs.1,60,000/-.

12. As far as the Transportation expenses is concerned, the Tribunal has awarded a sum of Rs.3,000/- which is on lower side and the same is hereby enhanced to Rs.5,000/-. Similarly, the Tribunal has awarded a sum of Rs.3,000/- under the head Extra-Nourishment and the same is enhanced to Rs.10,000/-.

13. The Tribunal after considering all other all aspects, awarded compensation under other heads and this Court is of the view the compensation awarded under other heads are just and reasonable and the same requires no further enhancement hence the same is hereby confirmed.



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14. Thus, the compensation awarded by the Tribunal under various heads are hereby modified as follows:

| S. No | Description                          | Amount awarded by Tribunal (Rs) | Amount awarded by this Court (Rs) | Enhanced/ Reduced / Granted / Confirmed |
|-------|--------------------------------------|---------------------------------|-----------------------------------|-----------------------------------------|
| 1.    | Loss of earning                      | Rs.25,000/-                     | Rs.25,000/-                       | Confirmed                               |
| 2.    | Transport to Hospital                | Rs.3,000/-                      | Rs.5,000/-                        | Enhanced                                |
| 3.    | Extra Nourishment                    | Rs.3,000/-                      | Rs.10,000/-                       | Enhanced                                |
| 4.    | Damages to clothing and articles     | Rs.1,000/-                      | Rs.1,000/-                        | Confirmed                               |
| 5     | Loss of income to the family members | Rs.10,000/-                     | Rs.10,000/-                       | Confirmed                               |
| 6     | Loss of amenities                    | Rs.10,000/-                     | Rs.10,000/-                       | Confirmed                               |
| 7     | Pain & Sufferings                    | Rs.20,000/-                     | Rs.20,000/-                       | Confirmed                               |
| 8     | Permanent disability                 | Rs.1,20,000/-                   | Rs.1,60,000/-                     | Enhanced                                |
|       | <b>Total</b>                         | <b>Rs.1,92,000/-</b>            | <b>Rs.2,41,000/-</b>              | <b>Enhanced by Rs.49,000/-</b>          |

15. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal is at Rs.1,92,000/- is hereby enhanced to Rs.2,41,000/- [Rupees Two Lakhs Forty One Thousand only] together with interest at the rate of 7.5% per annum from the date of filing of Claim Petition till the date of deposit. The respondent – Transportation Corporation is directed to deposit the award amount, now determined by



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this Court, along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.731 of 2015, on the file of learned Principal Special Judge, Special Court, under EC & NDPS Act, Chennai - 104. On such deposit, the claimant is permitted to withdraw the award amount, now determined by this Court, along with proportionate interest and costs, less the amount, if any, already withdrawn. The Tribunal shall disburse the amount by directly giving credit to the Savings Bank Account of the claimant. Since this Court has enhanced the compensation, the appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation. In other aspects, the award of the Tribunal shall stand confirmed. It is made clear that the appellant/claimant is not entitled to claim any interest for the delay period as per the Order of this Court dated 27.08.2021 made in C.M.P.No.9479 of 2021 in C.M.A.SR.No.53285 of 2021. In other aspects the award of the Tribunal shall stand confirmed. There shall be no order as to costs in the present appeal.

11.01.2024

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Index : Yes / No

Speaking Order: Yes / No



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Neutral Citation Case : Yes/No

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K.RAJASEKAR,J.

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To

1.The Principal Special Judge, Special Court  
under EC & NDPS Acct,  
Chennai-600 104.

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

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