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Civil Miscellaneous Appeal No.1243 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1243 of 2024

N.Rajesh Kannu

... Appellant

Vs.

The Managing Director,
Metropolitan Transport Corporation Limited,
Pallavan House, Anna Salai,
Chennai -2

... Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 20.01.2022 made in M.C.O.P No.1904 of 2012 on the file of Motor Accident Claims Tribunal (IV Small causes Court), Chennai.

For Appellant : Mr.K.Varadha Kamaraj

For Respondents : M/s.Anton Dhanasekar



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JUDGMENT

The claimant not being satisfied with the quantum of compensation has filed this appeal challenging the award passed by Motor Accident Claims Tribunal (IV Small causes Court), Chennai, in M.C.O.P No.1904 of 2012 dated 20.01.2022.

2. The case of the claimant is that he was riding a two wheeler on 29.11.2011 in Kamarajar salai and at about 19.00 hours, the bus belonging to the Transport Corporation was driven in a rash and negligent manner and it hit on the rear side of the two wheeler. As a result of which, the appellant was thrown out of the two wheeler and he sustained bilateral public rami fracture, Right V metatarsal base fracture, left distal third femur fracture and multiple abrasions. The claimant under went treatment as an in patient for nearly 10 days and he was also operated upon. It is under these circumstances, the present appeal came to be filed before the Tribunal seeking for payment of compensation.

3. The Tribunal on considering the facts and circumstances of



the case and on appreciation of oral and documentary evidence came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the bus belonging to the Transport Corporation. Having rendered such a finding, the Tribunal determined the total compensation at Rs.2,40,200/- under the following heads :-

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Disability	Rs.75,000/-
2.	Medical expenses	Rs.96,173/-
3.	Loss of Income	Rs.20,000/-
4.	Pain and sufferings	Rs.10,000/-
5.	Transportation expenses	Rs. 5,000/-
6.	Nutrition expenses	Rs. 15,000/-
7.	Damages to clothes	Rs. 1,000/-
8.	Attender Charges	Rs. 3,000/-
9.	Loss of amenities	Rs.10,000/-
10.	Mental Agony	Rs. 5,000/-
	Total	Rs.2,40,173/-

Rounded off to Rs.2,40,200/-

The above compensation was directed to be paid with interest at



the rate of 7.5% per annum.

4. The claimant not being satisfied with the quantum of compensation fixed by the Tribunal has filed this appeal seeking for enhancement of compensation.

5. Heard Mr.K.Varadha Kamaraj, learned counsel for appellant/ claimants and Mr.Anton Dhanasekaran, learned counsel for respondent.

6. This Court has carefully considered the submissions made on either side and the materials available on record.

7. This Court also carefully went through the award passed by the Tribunal.

8. The main ground that was urged by the learned counsel for the appellant before this Court was that the compensation that was fixed by the Tribunal under various heads is on the lower side, considering the



nature of injuries sustained by the claimant and also the fact that he was assessed with 30% disability.

9. The claimant underwent treatment as an in patient for nearly 10 days and an operation was also performed. The nature of injuries sustained by the claimant has already been extracted supra. Hence, considering the same, the claimant would not have been able to perform his regular job at least for three months. Hence, this Court is inclined to increase the compensation under the head of loss of income to Rs.30,000/- (Rs.10,000/- x 3). For the very same reason, the compensation under the head of pain and sufferings is increased to Rs.25,000/-. Transportation expenses is increased to Rs.10,000/-. Nutrition expenses is increased to Rs.25,000/- and attender charges is increased to Rs.10,000/-. Considering the nature of injuries sustained both on the femur bone and on the right bone, this Court is inclined to enhance under the head of loss of amenities to Rs.20,000/-.

10. Insofar as the quantum of compensation is concerned, the compensation fixed is reasonable and it does not require the interference



of this Court.

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11. In the light of the above discussion, this Court modifies the compensation in the following manner:-

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Disability	Rs.75,000/-
2.	Medical expenses	Rs.96,173/-
3.	Loss of Income	Rs.30,000/-
4.	Pain and sufferings	Rs.25,000/-
5.	Transportation expenses	Rs.10,000/-
6.	Nutrition expenses	Rs.25,000/-
7.	Damages to clothes	Rs. 1,000/-
8.	Attender Charges	Rs. 10,000/-
9.	Loss of amenities	Rs.20,000/-
10.	Mental Agony	Rs. 5,000/-
	Total	Rs.2,97,173/-

16. The compensation awarded by the Tribunal at Rs.2,40,173/- is enhanced to Rs.2,97,173/-. The Transport Corporation is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the



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date of deposit within a period of four weeks from the date of receipt of this judgment. Insofar as the enhanced compensation of Rs.57,000/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay of 481 days as was ordered by this Court in C.M.P.No.27794 of 2023, dated 24.04.2024. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

In the result, the Civil Miscellaneous Appeal is allowed in the above terms. No costs.

18.06.2024

Speaking Judgment/Non-speaking Judgment
Index :Yes/No
Neutral citation: Yes/No
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Civil Miscellaneous Appeal No.1243 of 2024

N.ANAND VENKATESH.,J

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To,
Motor Accident Claims Tribunal (IV Small causes Court), Chennai.

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18.06.2024