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C.M.A.No.4394 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.4394 of 2019

Raj

... Appellant

Vs.

1.S.Chandran

2.Tamil Nadu State Transport Corporation Limited,
having office at:
Chennimalai Road,
Erode.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to against the judgment and decree rendered by the Tribunal in M.C.O.P.No.153 of 2009 dated 30.04.2010 on the file of Court of the Motor Vehicle Accidents Claims Tribunal, Perundurai (Subordinate Judge's Court) and to allow the civil miscellaneous appeal.

For Appellant : Mr.V.Kadhirvelu
For Respondents : R1 – No Appearance
Mr.Murali Vinod for R2

J U D G M E N T

This appeal has been filed by the appellant/ claimant



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challenging

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the judgment and decree passed in M.C.O.P.No.153 of 2009 dated 30.04.2010 by the Motor Vehicle Accidents Claims Tribunal, Perundurai (Subordinate Judge's Court).

2.The learned counsel appearing for the appellant submitted that on 19.03.2009 at about 20.10 hours, the appellant was walking along Nallampatty to Nasiyanur Road in West to East near Ravi Bakery. At that time, the a bus bearing Registration No.TN 33 N 1305 which came from West to East in a rash and negligent manner dashed behind the appellant, due to which, the appellant sustained injuries.

3.The learned counsel appearing for the appellant further submitted that the injured claimant/ appellant filed claim petition before the Motor Accidents Claims Tribunal, claiming a sum of Rs.3,10,000/- as compensation. After adjudication, the Tribunal awarded a sum of Rs.1,71,632/- as compensation along with interest at the rate of 7.5% per annum from the date of filing of the petition till the date of realization with costs. Aggrieved by the same, the claimant has preferred this appeal seeking enhancement in



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compensation.

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4.The learned counsel appearing for the appellant further submitted that the second respondent Transport Corporation filed appeal before this Court in C.M.A.No.845 of 2011 as against the impugned award claiming that the Transport Corporation is not liable to pay compensation and the said appeal was dismissed by this Court on 26.04.2021. The learned counsel further submitted that though the Doctor assessed the disability of the claimant as 30%, the Tribunal took into consideration the disability as 15% and awarded a meagre compensation to the claimant and hence, the appellant is entitled for enhanced compensation.

5.Per contra, the learned counsel appearing for the second respondent Transport Corporation submitted that though the appeal filed by the second respondent was dismissed by this Court, the appellant is not entitled for enhancement in compensation since the Tribunal after considering all the factual aspects, awarded the compensation which is just and reasonable.

6.Heard the learned counsel appearing for the appellant as well



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as the learned counsel appearing for the second respondent and perused the materials available on record.

7.The accident and the manner in which the accident happened are not disputed. This appeal has been filed only questioning the quantum of compensation. Hence, there is no need for any discussion with regard to negligence aspect.

8.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.8,000/- for partial loss of earning, Rs.2,400/- for transport to hospital, Rs.2,000/- for extra nourishment, Rs.1,000/- for damage to clothing and articles, Rs.45,232/- for medical expenses, Rs.5,000/- for pain and sufferings, Rs.1,08,000/- for continuing as permanent disability and loss of earning power and arrived at a total compensation of Rs.1,71,632/- with interest at the rate of 7.5% p.a. from the date of filing of the petition till the date of realization.

9.The Tribunal ought to have followed the decision of the Hon'ble Apex Court reported in *(2011) 1 SCC 343 [Raj Kumar Vs. Ajay Kumar and Ors.]*, however, without following the guidelines



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issued in the said decision, the Tribunal mechanically passed the award by applying multiplier method, which is not sustainable one.

10.The Doctor assessed the disability of the injured claimant as 30% disability. At the relevant point of time Rs.3,000/- per percentage of disability was awarded. Hence, the amount awarded for continuing as permanent disability and loss of earning power works out to Rs.90,000/- [30% X Rs.3,000/- = Rs.90,000/-].

11.The amount awarded under the heads damage to clothing and articles, Rs.45,232/- for medical expenses, in the opinion of this Court are just and reasonable and the same are confirmed. The amount awarded under the heads partial loss of earning, transport to hospital, extra nourishment, pain and sufferings, in the opinion of this Court are low and this Court is inclined to enhance the amount awarded under the said heads. Accordingly, the amount awarded for partial loss of earning is enhanced to Rs.18,000/- from Rs.8,000/-, the amount awarded for transport to hospital is enhanced to Rs.5,000/- from Rs.2,400/-, the amount awarded for extra nourishment is enhanced to Rs.15,000/- from Rs.2,000/-, the amount



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awarded for pain and sufferings is enhanced to Rs.25,000/- from Rs.5,000/-.

12. Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Partial loss of earning	Rs. 8,000/-	Rs. 18,000/-
2.	Transport to hospital	Rs. 2,400/-	Rs. 5,000/-
3.	Extra nourishment	Rs. 2,000/-	Rs. 15,000/-
4.	Damage to clothing and articles	Rs. 1,000/-	Rs. 1,000/-
5.	Medical expenses	Rs. 45,232/-	Rs. 45,232/-
6.	Pain and sufferings	Rs. 5,000/-	Rs. 25,000/-
7.	Continuing as permanent disability and loss of earning power	Rs.1,08,000/-	Rs. 90,000/-
	Total	Rs.1,71,632/-	Rs.1,99,232/-

13. The appellant/ claimant is entitled to total compensation of Rs.1,99,232/- along with interest at the rate of 7.5% p.a. from the date of filing of the petition till the date of realization.

14. The civil miscellaneous appeal is partly allowed. The judgment and decree passed in M.C.O.P.No.153 of 2009 dated



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30.04.2010 by the Motor Vehicle Accidents Claims Tribunal, Perundurai (Subordinate Judge's Court), is modified to the above extent.

15.The second respondent Transport Corporation is directed to deposit the modified/ enhanced award amount before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant is permitted to withdraw the entire modified/ enhanced award amount with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The appellant/ claimant shall not be entitled to any interest for the period of delay, if any, in filing the appeal. The appellant/ claimant is directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Tribunal, shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellant/ claimant.

16.The civil miscellaneous appeal is partly allowed. No costs.

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Note: Issue order copy on or before 27.11.2024.

Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

- 1.The Motor Vehicle Accidents Claims Tribunal,
Perundurai (Subordinate Judge's Court).

M.DHANDAPANI,J.
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