

CASE NO.:
Appeal (civil) 2204-2205 of 2002

PETITIONER:
S. RAJAN

RESPONDENT:
CHENNAI METROPOLITAN TRANSPORT CORPORATION LTD

DATE OF JUDGMENT: 20/02/2008

BENCH:
H.K. SEMA & MARKANDEY KATJU

JUDGMENT:
JUDGMENT
O R D E R

CIVIL APPEAL NOS.2204-2205 OF 2002

We have heard, Ms. Madhusmita Bora, learned counsel for the appellant and Mr. T. Harish Kumar, learned counsel for the respondent at length.

The appellant, a boy when aged about 20 years met with a fatal vehicle accident on 26.06.1997. He sustained the following bodily injuries:

- i. Amputation of the right leg leaving 10cms. from the hip.
- ii. Multiple compound fracture in the left leg knee and in the ankle.
- iii. Severe injury to the head leading to a state of unconsciousness.
- iv. Severe injury in the left hand palm
- v. Skin grafting done in the left leg
- vi. Severe internal injuries.

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Doctor certified that he sustained 100% permanent physical disability. It is not disputed that at the time of accident the appellant was working as a mason and he was earning Rs.3,000/- per month. The Tribunal by its order awarded Rs.75,000/- for loss of marital alliance. The Tribunal also awarded Rs.25,000/- towards inability to participate in family and social functions. The Tribunal also awarded Rs. 75,000/- towards pain and suffering due to fracture in his left leg and amputation of his right leg. The Tribunal further awarded Rs.1,00,000/- as compensation for loss of earning power as against the claim of Rs.11,00,000/-. All together the Tribunal has awarded Rs.5,25,000/- with interest at the rate of 12% per annum. On appeal being preferred by the appellant the High Court has enhanced to Rs.5,29,948/-. However, the High Court has reduced the rate of interest from 12% per annum to 9% per annum.

Admittedly, the claimant had suffered grievous injuries out of the motor accident and amputation of the right leg leaving 10 cms. from the hip. It is also in the evidence on record that the claimant also suffered multiple compound fracture in the left leg knee and in the ankle amongst other injuries. He has been totally incapacitated for future earning power. His dream of having a married life has been shattered.

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Considering the aforesaid circumstances we add Rs.1,00,000/- more under the head of loss of earning power. Under that heading we enhance from Rs.1,00,000/- awarded by the Tribunal to Rs.2,00,000/-. The other sum awarded by the Tribunal and affirmed by the High Court is not disturbed.

With the aforesaid enhancement the appeals are partly allowed.