

In the High Court of Judicature at Madras

Dated: 08.01.2016

Coram

The Honourable Mr. Justice T.RAJA

C.M.A.No.3641 of 2010

R.Kannaki

... Appellant/Petitioner

..vs..

MetropolitanTransport Corporation Ltd.,
(Chennai Division),
Rep. by its Managing Director,
Pallavan Salai, Chennai-2. ... Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed by the learned III Judge, Small Causes Court No.III, (MACT), Chennai in M.A.C.T.O.P.No.2876 of 2006 dated 19.08.2010.

For Appellant : Mr.N.M.Muthurajan

For Respondent : Mr.K.S.Suresh

JUDGMENT

Not being satisfied with the award dated 19.08.2010 passed in M.A.C.T.O.P.No.2876 of 2010 by the learned III Judge, Small Causes Court No.III, (MACT), Chennai, the present appeal has been filed by the Appellant/claimant for enhancement of compensation.

2.The brief facts of the case, which are necessary for the disposal of the appeal, is as follows:

On 26.06.2006 at about 11.45 hours, when the appellant was riding her Scooty motor cycle bearing registration No.TN-07-M-4818 along Jawaharlal Nehru Salai from south to north direction and when she stopped her vehicle at Amman Koil Street signal point, Vadapalani, the respondent Transport Corporation bus bearing Registration No.TN-01-N-3396 driven by its driver in a rash and negligent manner, hit the appellant, due to which she sustained injuries and treated as out-patient at Government Royapettah Hospital, Chennai.

3.The Tribunal, after evaluating the evidence adduced by the parties, held that the driver of the respondent Transport Corporation, who drove the bus in a negligent manner was responsible for the accident and awarded a sum of Rs.16,700/- as compensation to the claimant, as against which the present appeal has been filed by the appellant/claimant.

4. Heard the submissions made by the learned counsel on either side and also perused the evidence available on record.

5. Learned counsel for the appellant submitted that when the appellant has suffered partial disablement of 10%, a sum of Rs.10,000/- awarded towards the same, as against the claim of Rs.1 lakh, is wholly unjustifiable and therefore, a sum of Rs.3,000/- per percentage of disability should be fixed. He would submit that only a sum of Rs.700/- has been awarded towards loss of income for one week which has to be enhanced, since she had not attended work for more than four months. He further submitted that the Tribunal, without considering the evidence of doctor, rejected the claim made under loss of earning power. Added further he submitted that the amount awarded under the heads of transportation, extra nourishment and pain and suffering are on the lower side and no amount has been awarded towards attendant benefits. He also submitted that rate of interest fixed at 7.5% p.a., is also on the lower side. In view of the above aspects, the learned counsel contended that the award passed by the Tribunal is liable to be set aside and prayed for a just and proper enhancement of compensation.

6. Per contra, the learned counsel for the respondent/Transport Corporation submitted that it is a case of injury and the claimant had been treated only as out-patient. He submitted that when the amount awarded by the Tribunal is just and proper, the same does not require any interference and hence, the appeal is liable to be dismissed.

7. Considering the submissions made on either side, this Court is not inclined to accept the contentions made by the learned counsel for the appellant. The reason is that the Tribunal has rightly taken into account the Disability Certificate/Ex.P10 issued by the doctor and also considering the fact that the appellant was treated only as an out-patient for the injuries and there was no fracture or any swelling, the Tribunal has fixed the compensation towards disability at the rate of Rs.1000/- per percentage of disability. The Tribunal has also awarded reasonable amounts under the other heads. Hence, this Court does not find any infirmity with the impugned award. In the result, the Civil Miscellaneous Appeal is dismissed. The claimant is entitled to receive the award amount with proportionate interest. There shall be no orders as to costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

The IIIrd Judge, Small Causes Court-III,
(The Motor Accident Claims Tribunal)
Chennai.

+ 1 cc to Mr.K.S. Suresh, Advocate Sr.1882

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