

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.02.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.1543 of 2015

and

C.M.P.No.17518 of 2016

V.Anandi

.. Appellant/Petitioner

versus

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Chennai - 02. Respondent/Respondent

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree passed in M.C.O.P.No.5043 of 2012 dated 27.02.2015, on the file of the Motor Accidents Claim Tribunal III Small Causes Court, Chennai.

For appellant : Mr.A.A.Venkatesan
For Respondents : Mr.S.Sivakumaran

J U D G M E N T

The Claimant Anandhi, aged 33 years, employed as a Lower Division Clerk, in Central Government Health Scheme, (the Additional Director, CGHS, Besant Nagar, Chennai), earning a sum of Rs.20,853/- per month, met with an accident, on 21.08.2012, due to which, she sustained fracture in left hand and multiple injuries all over the body. Hence, she filed a Claim Petition in M.C.O.P.No.5043 of 2012, seeking compensation of Rs.6,00,000/-.

1.1. The Claims Tribunal, on consideration of oral and documentary evidence, has awarded a sum of Rs.1,23,000/- with interest @ 7.5% per annum from the date of petition till the date of deposit, as compensation. The break-up details of the same are as under:

Transport to Hospital	-	Rs.	5,000/-
Extra Nourishment	-	Rs.	5,000/-
Damage to Clothing	-	Rs.	500/-
Medical Expenses	-	Rs.	2,500/-
Loss of Amenities	-	Rs.	20,000/-
Pain and suffering	-	Rs.	30,000/-
Disability at 30% at	-	Rs.	60,000/-
Rs.2,000/- per percentage	-		
			<u>Rs.1,23,000/-</u>

1.2. Expressing the grievance that the compensation awarded is inadequate, the claimant has filed this Civil Miscellaneous Appeal.

2. The learned counsel for the appellant would submit that the the disability compensation awarded by the Claims Tribunal is very low; the Tribunal ought to have taken Rs.3,000/- per percentage of disability, while quantifying the compensation towards disability. The further submission is that the claimant has taken treatment at MIOT hospital as inpatient from 21.08.2012 to 27.08.2012 and she has incurred huge medical expenses and continued to take the treatment as out patient; but, the tribunal has awarded a sum of Rs.2,500/- towards medical expenses, which is very low; the Tribunal ought to have awarded future medical expenses also.

3. The learned counsel for the respondent would submit that there is no scope for future medical expenses and therefore, the same need not be considered. This contention of the learned counsel for the respondent is acceptable as there is no evidence for awarding future medical expenses.

4. This Court, considering the fact that the accident is of the year 2012, is inclined to award a sum of Rs.3,000/- per percentage as disablement compensation and in respect of 30% disability, the compensation awarded is Rs.90,000/- (30% x Rs.3000/-).

4.1. The Doctor has certified the disability at 40% on account of mal union after the fracture in left arm and elbow. The Doctor has certified that the rotation is restricted and consequently, there is pain and stiffness. Certainly, this would cause difficulty in the discharge of household activities at least for a limited period till the petitioner gets flexibility. As she is employed, she has to secure the services of maidservant for at least one year. Therefore, a sum of Rs.20,000/- is awarded towards engaging the services of the maidservant for one year. The amount awarded under other heads does not require any interference as it is found to be

reasonable.

5. In the result, this Civil Miscellaneous Appeal is partly allowed, enhancing the compensation from Rs.1,23,000/- to Rs.1,73,000/- with interest @ 7.5% per annum from the date of petition till the date of deposit.

6. It is represented that the Transport Corporation has already deposited the award amount as ordered by the tribunal. Hence, the Transport Corporation is directed to deposit the enhanced award amount with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the claimant is permitted to withdraw the amount. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1 The Motor Accidents Claim Tribunal,
The Judge,
III Small Causes Court,
Chennai.

Copy to:

2 The Section Officer,
VR Section, High Court, Madras 104

rj (CO)
md(05/04/2017)

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