

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 04.07.2017
CORAM:
THE HONOURABLE Dr. JUSTICE S.VIMALA
C.M.A.No.1756 of 2017

Preethima

... Appellant/Petitioner

versus

The Managing Director,
Metropolitan Transport Corporation,
Pallavan House, Anna Salai,
Chennai - 600 002.

.... Respondent/Respondent

Appeal filed under Section 173 of Motor Vehicles Act 1989, against the Judgment and Decree dated 30.06.2014 made in M.A.C.T.O.P.No.701 of 2011 on the file of the Motor Accident Claims Tribunal, IV Judge, Small Causes Court, Chennai.

For Appellant : Mr.S.Ravikumar

For Respondent : Mr.S.Sivakumar

JUDGMENT

The claimant, Preethima, aged 17 years, studying 12th std. In Perambur Girls Higher Secondary School, Chennai, met with an accident on 11.01.2011 and sustained injuries. She filed a claim petition for compensation claiming a sum of Rs.6,00,000/-.

2. The Tribunal, considering the oral and documentary evidence, awarded a sum of Rs.1,20,000/- as compensation, the break-up details of the award reads as under:

Disability	-	Rs. 90,000/-
Transportation	-	Rs. 5,000/-
Extra nourishment	-	Rs. 10,000/-
Pain and suffering	-	Rs. 15,000/-
Total	-	Rs.1,20,000/-

Challenging the quantum of compensation as inadequate, the claimant has filed this Civil Miscellaneous Appeal.

3. A perusal of the materials available on record reveals that that the petitioner sustained crush injury compound 3B, left foot with extra articular fracture of the left calcaneum bone; she has been treated surgically with wound cleaning and fixation of the calcaneum bone with screws and the disablement

has been stated to be 50%. However, the Tribunal, considering the injuries sustained by the claimant coupled with the evidence of the doctor, has fixed the at 45%. Though the petitioner was a student at the time of accident, however she was stated to be earning a sum of Rs.5,000/- per month as a sales girl. However, in the absence of any documentary evidence filed to show the income, the Tribunal has not adopted multiplier method for quantification to assess the disablement compensation, but, awarded the disablement compensation at the rate of Rs.2,000/- per percentage of disability.

4. Learned counsel appearing for the appellant submits that the disablement compensation should have been awarded at Rs.3,000/- per percentage as the accident occurred in the year 2011, but, the Tribunal has committed irregularity in awarding only a sum of Rs.2,000/- per percentage.

5. It is evident from the records that the claimant has suffered multiple injuries in the accident and has suffered disability, which has been assessed at 45% by the Tribunal. The claimant was a student at the time of the accident and was also stated to be earning. Though no documentary evidence has been filed to prove the same, it is common knowledge that in the present scenario, students do part-time jobs to earn something for their expenses, without depending much on the parents. The culture of earn while you learn is fast developing and students want to stand on their own legs even during the period of their study. In that backdrop, the earning of the claimant cannot be brushed aside. However, without any documents to prove the same, accepting the amount as spoken to by the claimant is also not permissible. In such circumstances, to do complete justice, the Tribunal ought to have awarded Rs.3,000/- per percentage of disability, considering the fact that the accident happened in the year 2011. In such view of the matter, this Court awards disablement compensation at Rs.3,000/- per percentage of disability for the 45% assessed disability. Accordingly, a sum of Rs.1,35,000/- is awarded towards disablement compensation.

6. Insofar as the compensation awarded under the other heads are concerned, it is seen that a sum of Rs.5,000/- alone is awarded towards transportation. This Court is of the considered view that an amount of Rs.10,000/- towards transportation would be a just and reasonable compensation.

7. It is seen from the award that only an amount of Rs.15,000/- has been awarded towards pain and suffering, which is very low, though the claimant has suffered multiple injuries. Accordingly, the compensation under pain and suffering is enhanced from Rs.15,000/- to Rs.25,000/-.

8. Further, it is seen that no amount has been awarded towards attendant charges. The claimant had suffered multiple injuries and had also underwent surgical procedures for which an attender would have been required. Further no amount has also been awarded towards loss of enjoyment of amenities. Considering the age of the claimant and also the nature of injuries, this Court awards a sum of Rs.10,000/- towards attendant charges and a sum of Rs.40,000/- is awarded towards loss of enjoyment of amenities.

9. In all, the award passed by the Tribunal is enhanced from from Rs.1,20,000/- to Rs.2,30,000/-. The break-up details of the enhanced award reads as under :

Disability	-	Rs.1,35,000/-
Transportation	-	Rs. 10,000/-
Pain and suffering	-	Rs. 25,000/-
Attendant charges	-	Rs. 10,000/-
Loss of enjoyment of amenities	-	Rs. 40,000/-
Extra nourishment	-	Rs. 10,000/-
Total	-	Rs.2,30,000/-

10. In the result, the Civil Miscellaneous Appeal is allowed, enhancing the compensation from Rs.1,20,000/- to Rs.2,30,000/-, which is payable by the Transport Corporation, along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit. No costs. The claimant/appellant shall pay the necessary Court Fee on the enhanced amount before receiving a copy of this judgment.

11. The appellant/Transport Corporation is directed to deposit the award amount as enhanced by this Court above along with interest @ 7.5% p.a. from the date of petition till the date of deposit, less the amount, if any, already deposited, to the credit of the claim petition within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the amount directly to the Bank Account of the claimant/appellant within a period of two weeks thereafter.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ogy/GLN

To

1. The Motor Accident Claims Tribunal,
(IV Judge), Small Causes Court, Chennai.

copy to

The Section Officer

VR Section

High Court Madras

+1 cc to Mr.S.Sivakumar Advocate sr 46459

+1 cc to Mr.S.Ravikumar Advocate sr 46287

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