

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.2255 of 2017

R.Arunadevi

... Appellant/Petitioner

versus

The Managing Director,
Tamil Nadu State Transport
Corporation Ltd.,
Kancheepuram.

... Respondent/Respondent

Appeal filed under Section 173 of Motor Vehicles Act 1989, against the Judgment and Decree dated 11.12.2015 made in M.C.O.P.No.5408 of 2002 on the file of the Motor Accident Claims Tribunal (IV Court Small Causes Judge), Chennai.

For Appellant : Mr.K.R.Ponnusamy

For Respondent : Mr.K.J.Sivakumar

JUDGMENT

The claimant, Arunadevi, aged about 24 years, a saleswoman, earning a sum of Rs.4,000/- p.m. met with an accident on 08.03.2001 and sustained injuries. Hence, she filed a claim petition in M.C.O.P.No.5408 of 2002 before the file of the Motor Accident Claims Tribunal (IV Court Small Causes Judge), Chennai, claiming compensation of Rs.2,00,000/-.

2. The Tribunal, on considering the oral and documentary evidence, awarded a sum of Rs.97,000/- as compensation, the break-up details of which are as follows:

Disability	-	Rs.	45,000/-
Pain and suffering	-	Rs.	25,000/-
Extra nourishment	-	Rs.	2,500/-
Transport to Hospital	-	Rs.	1,000/-
Damages to clothes	-	Rs.	1,000/-
Attendant charges	-	Rs.	750/-
Medical Expenses	-	Rs.	5,000/-
Future Medical Expenses	-	Rs.	5,000/-
Loss of income	-	Rs.	6,500/-
Loss of amenities	-	Rs.	5,000/-

Total	----- - Rs. 96,750/- -----
Rounded off	----- - Rs. 97,000/- -----

Challenging the quantum of compensation as inadequate, the claimant has filed this appeal.

3. The learned counsel appearing for the appellant submitted that the claimant has suffered fracture of anterior superior margin of L2 & L3 vertebra and disablement has been assessed by the Doctor at 30%. When the Doctor has assessed the disability at 30%, especially in respect of L2 and L3 fracture, the Tribunal, without assigning any proper reason has fixed the percentage of disability at 15%. The learned counsel further submitted that multiplier method should have been adopted while quantifying the compensation and the compensation awarded under the heads extra nourishment, transport to hospital, medical expenses are very low. Therefore, the award has to be enhanced.

4. The learned counsel appearing for the respondent submitted that though the disability has been fixed by the Doctor is 30%, but, it was not with reference to the whole body and therefore, the Tribunal, taking that aspect into account, has fixed the disability at 15%, which is justified.

5. A perusal of the evidence reveals that the claimant has sustained fracture of anterior superior margin of L2 and L3 vertebra. The Doctor has issued the disability certificate assessing the disability at 30%. However, the Tribunal fixed the disability at 15%, but no cogent or convincing reason has been given by the Tribunal to fix the disability at 15%. When the Tribunal fixes the disability at a rate than the one fixed by a medical expert, it ought to give reasons for differing with the said expert opinion for arriving at a different conclusion. However, in the case on hand, the Tribunal has not given any reason whatsoever to fix the disability at 15%.

6. Considering the fracture sustained by the claimant on anterior superior margin of L2 and L3 vertebra, had the Tribunal thought that disability is fixed on the higher side, it should have put relevant questions to the Doctor on that aspect, but, that has not been done. Further, the fracture sustained in L2 and L3 bones would hamper the day-to-day activities of the claimant. The claimant would find it difficult to carry weight. Therefore, this Court is of the view that the disablement suffered by the claimant fixed at 30% by the doctor needs to be confirmed.

7. Insofar as compensation towards disablement, this Court feels that the contention of the learned counsel for the claimant for adoption of multiplier method is not warranted in the facts and circumstances of the case. This Court feels that Rs.2,000/- per percentage of disability would be a just and reasonable. Accordingly, the disablement compensation is quantified at Rs.60,000/- (Rs.2000 x 30%).

8. The injuries as narrated above would make it difficult for the claimant to do household activities or go to work at least for a period of six months. Considering the same, the compensation towards loss of income for a period of six months is awarded at Rs.15,000/- in addition to the amount awarded by the Tribunal.

9. Insofar as the compensation under other heads are concerned, the Tribunal, after considering the nature of injury and the impact of the injury sustained by the claimant, has awarded reasonable amounts which cannot be said to be excessive and, therefore, warrants no interference.

10. For the reasons aforesaid, the Civil Miscellaneous Appeal is allowed enhancing the compensation by Rs.30,000/- over and above the compensation awarded by the Tribunal. No costs.

11. It is represented that the entire compensation awarded by the Tribunal has already been deposited and the same has been withdrawn by the claimant. The Transport Corporation is directed to deposit the balance portion of the enhanced compensation along with interest as ordered by the Tribunal to the credit of 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 shall transfer the same directly to the Bank Account of the claimant through RTGS within a period of two weeks thereafter. The Court Fee due shall be paid by the claimant, before obtaining the copy of the Judgment.

s/d-

Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

ogy/GLN

To

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

+1 CC to Mr. Anand & Suryas, Advocate sr 61483

C.M.A.No.2255 of 2017

GP(CO)
SP(11/04/2018)



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