

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2018

CORAM

THE HON'BLE MR. JUSTICE K.K.SASIDHARAN
and
THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

C.M.A.No.1443 of 2018

Chandra .. Appellant/Petitioner

Vs.

The Managing Director,
Metropolitan Transport Corporation
Limited, Pallavan Salai,
Chennai - 2.

.. Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 03.01.2018 in M.A.C.T.O.P.No.3158 of 2015 on the file of the Motor Accidents Claims Tribunal (III Court of Small Causes, IV Judge, FAC), Chennai.

For Appellant ... Mr.F.Terry Chellaraja

For Respondent ... Mr.S.S.Swaminathan

JUDGMENT

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

The claimant, who sought compensation of Rs.40 lakhs for the injuries suffered by her in a motor accident that occurred on 15.01.2015 is the appellant. She claims that she was doing milk vending business and earning about Rs.15,000/- per month. The Tribunal took her monthly income at Rs.6,500/- and granted a sum of Rs.4,21,200/- inasmuch as the functional disability was assessed by the doctor at 60%. The Tribunal granted compensation on other heads such as pain and suffering, extra nourishment etc. The claimant is before us seeking enhancement.

2.We have heard Mr.F.Terry Chellaraja, learned counsel appearing for the appellant and Mr.S.S.Swaminathan, learned counsel appearing for the respondent.

3.Mr.F.Terry Chellaraja, learned counsel appearing for the appellant would contend that considering the date of the accident, the monthly income fixed by the Tribunal is too low and the Tribunal has not taken future prospects into consideration.

4. On the other hand, Mr. S. S. Swaminathan, learned counsel appearing for the respondent, opposing the claim would contend that there is no proof of income and in the absence of any proof that the injured claimant was doing some business, particularly milk vending, the Tribunal was right in fixing the monthly income at Rs. 6,500/-.

5. We have considered the rival submissions and the evidence on record.

6. We find that fixing the monthly income at Rs. 6,500/- is just and proper. However, the Tribunal has not added any amount towards future prospects. As per the decision of the Supreme Court in National Insurance Co. Ltd vs Pranay Sethi and others (2017 (2) TN MAC 271), 10% is to be added as future prospects. Considering the age of the claimant viz., 56 years, adding 10% towards future prospects, the monthly income works out to Rs. 7,150/- and the multiplier applicable is 9. The total loss of earning due to functional disability is as follows:

$$\text{Rs. } 7,150/- \times 12 \times 9 \times 60/100 = \text{Rs. } 4,63,320/-$$

The compensation towards functional disability is fixed at Rs. 4,63,320/-.

7. The Tribunal has not granted any amount towards permanent disability assessed at 60%. The permanent disability is certified to be 60%. At the rate of Rs. 3,000/- per percentage of disability, the compensation for permanent disability works out to Rs. 1,80,000/-. The Tribunal granted a sum of Rs. 10,000/- towards loss of amenities. Considering the fact that the accident has resulted in amputation of one leg below knee, we are of the opinion that the same should be enhanced to Rs. 30,000/-. The total compensation is arrived at as follows:

Functional disability	.. Rs. 4,63,320/-
Permanent disability	.. Rs. 1,80,000/-
Pain and suffering	.. Rs. 1,00,000/-
Extra Nourishment	.. Rs. 25,000/-
Transport to Hospital	.. Rs. 10,000/-
Damage to cloth	.. Rs. 1,000/-
Attender Charges	.. Rs. 1,800/-
Medical Expenses	.. Rs. 3,83,863/-
Future Medical Expenses	.. Rs. 10,000/-
Loss of Income	.. Rs. 13,000/-
Loss of Amenities	.. Rs. 30,000/-
	= = = = =
Total	.. Rs. 12,17,983/-
	= = = = =

8. The total compensation works out to Rs. 12,17,983/- and the same is rounded off to Rs. 12,18,000/- with 7.5% interest and

proportionate costs. The Transport Corporation shall deposit the enhanced amount within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the claimant would be entitled to withdraw the same.

9. In fine, the Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-
Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Managing Director,
Metropolitan Transport Corporation
Limited, Pallavan Salai,
Chennai - 2.

2. The IV Judge FAC,
III Judge, Court of Small Causes
(Motor Accidents Claims Tribunal),
Chennai.

3. The Record Keeper, V.R. Section,
High Court, Madras.

+ 1 cc to MR. S.S. Swaminathan, Advocate Sr.58485
+ 1 cc to Mr. Malar, Advocate Sr.58942

C.M.A.No.1443 of 2018

MR(CO)
EU(25/10/2018)

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