

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.NO.1411 OF 2006

Kalpana

...Appellant/Petitioner

Vs

The Managing Director,
Metro Transport Corporation,
Madras-600 002.

...Respondent/Respondent

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 24.03.2003 made in MCOP No.1260 of 1999 on the file of the Motor Accidents Claims Tribunal, II Fast Track Judge, Chennai.

For Appellant : Mrs.Ramya Rao

For Respondent : Mr.S.S.Swaminathan

JUDGMENT

The case in brief, is as follows:

On 19.08.1998, at about 18.00 hours, the appellant was returning in her bicycle from school to her house, at Chennai. When she reached near Gandhi Nagar Bridge, the bus bearing Reg.No.TN-01-N-2576 belonging to the respondent Transport Corporation came from the opposite direction in a rash and negligent manner and dashed against the bicycle. Due to the said impact, the appellant sustained multiple injuries and a fracture in the right leg. The appellant filed a claim petition before the Tribunal claiming a sum of Rs.2,50,000/- as compensation. Considering the materials and evidence available on record, the Tribunal awarded a sum of Rs.87,200/- with interest at the rate of 9% per annum from the date of petition, as total compensation.

2.Challenging the same, the appellant -claimant has filed the present Civil Miscellaneous Appeal for enhancement of compensation.

3.The learned counsel for the appellant /claimant has submitted that the Tribunal has failed to consider the evidence of the Doctor while awarding compensation for permanent

disability. She also submitted that the compensation awarded by the Tribunal towards other heads are very meagre and hence the same requires enhancement.

4.The learned counsel for the respondent Transport Corporation has submitted that the Tribunal has correctly considered the materials and evidence available on record and has correctly awarded the compensation, which is just, fair and reasonable and hence the judgment of the Tribunal does not require any interference in the hands of this Court.

5.Heard the learned counsel for the appellant / claimant and the learned counsel for the respondent and perused the materials available on record carefully and meticulously.

6.The Tribunal has awarded a sum of Rs.12,200/- towards medical expenses and transportation, Rs.10,000/- towards pain and suffering, Rs.10,000/- towards loss of earning capacity and Rs.55,000/- towards 55% disability. Even though the Doctor fixed the percentage of disability at 60%, the Tribunal reduced the same to 55% on the ground that the percentage would differ from Doctor to Doctor. Even though the amounts awarded towards the above heads are reasonable, this Court is of the view that the Tribunal has erred in not awarding any amount towards extra nourishment and attender charges. Considering the injuries suffered, necessarily the injured would have required the assistance of an attender. It would be appropriate to award a sum of Rs.5,000/- each towards extra nourishment and attender charges. Further, it is seen that due to the injuries sustained, the appellant is unable to walk and she requires the assistance of a stick to walk. Considering the same, it would be appropriate to award a sum of Rs.10,000/- each towards future medical expenses and loss of amenities. The details of the modified compensation are as follows:

HEADS	AMOUNT (Rs.)
Medical expenses and transportation	12,200/-
Loss of earning capacity	10,000/-
Permanent disability	55,000/-
Pain and suffering	10,000/-
Extra nourishment	5,000/-
Attender charges	5,000/-
Future medical expenses	10,000/-
Loss of amenities	10,000/-

TOTAL...	1,17,200/-

Thus, the appellant / claimant is entitled to the modified compensation of Rs.1,17,200/-.

7.It is made clear that only for the compensation of Rs.87,200/- awarded by the Tribunal, the interest rate of 9% per annum shall be calculated from the date of claim petition. For the enhanced amount of Rs.30,000/-, the interest rate will be 7.5% per annum and the same shall be calculated from the date of filing of this appeal.

8.The Civil Miscellaneous Appeal is allowed to the extent indicated above. No costs.

9.The respondent Transport Corporation is directed to deposit the modified compensation as ordered above, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant / claimant shall withdraw the same, on making proper application before the Tribunal.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

KM

To

1. The Judge,
The Motor Accidents Claims Tribunal
II Fast Track Court Judge, Chennai.
2. The Section Officer,
VR Section, Madras High Court.

+1cc to Mr.S.S.Swaminathan, Advocate, S.R.No.72564

BR(CO)
CS/04/03/2020

C.M.A.No.1411 of 2006

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