

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.1435 of 2013

K.Chitra

...Appellant/Petitioner

.Vs.

The Managing Director,
Tamilnadu State Transport Corporation
(Kumbakonam) Limited,
Railway Station New Road,
Kumbakonam - 612001.

...Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 14.02.2012 in M.C.O.P.No.4163 of 2009 on the file of the Motor Accidents Claims Tribunal, V Small Causes Court, Chennai.

For Appellant : Mr.A.Shanmugaraj

For respondent : Mr.D.Venkatachalam

JUDGMENT

The appellant is the claimant in M.C.O.P.No.4163 of 2009 on the file of the Motor Accidents Claims Tribunal, V Small Causes Court, Chennai. She filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 and Rule 3 of MACT Rules praying to award compensation of Rs.1,00,000/- for the injuries sustained by her in a road accident that took place on 15.01.2009.

2. The case of the claimant is that on 15.01.2009, the claimant was travelling as a passenger in a Maruthi Omni bearing Registration No. TN 09-N-2261 along National Highway 45, Vikravandi. At about 12.30 am, when the driver of the van parked the van on the left side of the road, a speeding TNSTC bus bearing Reg.No.TN-45-N-2469 hit the van, as a result of which, the claimant sustained injuries all over her body. The further contention of the claimant is that she took treatment at Government Head Quarters Hospital, Villupuram as an out patient for dislocation of left knee. The specific contention of the claimant is that the accident took place due to the rash and negligent driving by the driver of the bus bearing Reg.No.TN-45-N-2469 belonging to the Tamil Nadu State

Transport Corporation Limited and therefore, they are liable to pay compensation of Rs.1,00,000/- to the claimant.

3. The V Small Causes Court, Chennai vide his decree and Judgment dated 14.02.2012, awarded a compensation of Rs.53,500/- together with interest at the rate of 7.5% per annum to the claimant. Not satisfied with the quantum of award passed by the tribunal, the claimant has preferred the present appeal under Section 173 of the Motor Vehicles Act, 1988.

4. Mr.A.Shanmugaraj, learned counsel appearing for the appellant / claimant would contend that even though Dr.J.R.R.Thiagarajan (PW4) had issued a disability certificate (Ex.P28) stating that the claimant has suffered disability of 40%, the Tribunal had awarded only a sum of Rs.30,000/- for the injuries sustained by the claimant. He would further contend that no amount was awarded towards future loss of earning. Therefore he would contend that the award amount passed by the tribunal has got to be enhanced.

5. Per contra, Mr.D.Venkatachalam, learned counsel appearing for the respondent / Transport Corporation contended that the award passed by the Tribunal is based on the well laid principles of law which were in vogue at the time of passing of the order and therefore, the same need not be disturbed at this stage.

6. A perusal of the permanent disability certificate (Ex.P28) shows that the claimant has suffered permanent disability of 40%. However, Dr.J.R.R.Thiagarajan (PW4) in his evidence had deposed that he examined the petitioner clinically and on the basis of wound certificate he assessed the disability as 40% for the injury sustained by the claimant. Ex.P28 / disability certificate shows that the claimant had suffered compression of C4 C5 and dislocation of C3 C4. The claimant also found to have difficulty in turning and bending his neck. Considering the nature of injuries sustained by the claimant, a sum of Rs.80,000/- is awarded for partial permanent disability. The amount awarded by the Tribunal towards transportation to hospital is also low and the same is enhanced to Rs.5,000/-. However, the Tribunal has not awarded any amount towards attender's charges and damages to cloth and therefore a sum of Rs.2,000/- and Rs.1,000/- are awarded respectively under those heads.

7. The learned counsel appearing for the appellant / claimant also contended that the claimant was a tailor, earning a sum of Rs.100/- per day on the date of the accident. Considering the nature of injuries sustained by the claimant, a sum of Rs.9,000/- (Rs.3,000/- x 3 months) is awarded towards loss of income.

8. The award passed by this Court under various heads is extracted hereunder:

S. No.	Head	Amount granted
1.	For permanent disability (Rs.2,000/- x 40)	Rs.80,000/-
2.	Loss of income (Rs.3,000/- x 3)	Rs.9,000/-
3.	Transport to Hospital	Rs.5,000/-
4.	Extra nourishment	Rs.5,000/-
5.	Medical expenses	Rs.2,000/-
6.	Pain and suffering	Rs.10,000/-
7.	Damages to cloth	Rs.1,000/-
8.	Attender charges	Rs.2,000/-
Total		Rs.1,14,000/-

Thus the compensation awarded by the tribunal is enhanced from Rs.53,500/- to Rs.1,14,000/- which would carry interest at the rate of 7.5% per annum.

9. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed.
No costs.

(ii) The compensation awarded by the tribunal is enhanced from Rs.53,500/- to Rs.1,14,000/-.

(iii) The appellant / claimant is directed to pay the court fee for the enhanced compensation amount, if any, and the Registry is directed to draft the decree only after the receipt of Court fee.

(iv) The respondent / Tamil Nadu State Transport Corporation Limited is directed to deposit the enhanced compensation amount i.e., Rs.1,14,000/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.4163 of 2009 on the file of the Motor Accidents Claims Tribunal, V Small Causes Court, Chennai within a period of four weeks from the date of receipt of a copy of this order.

(v) On such deposit being made, the appellant / claimant is at liberty to withdraw the same after following due process of law.

Sd/-

Assistant Registrar(CS-I)

//True copy//

Sub Assistant Registrar

To

1.The V Judge,
The Motor Accidents Claims Tribunal,
The Court of Small Causes,
Chennai.

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

+1cc to Mr.A.Shanmugaraj, Advocate SR.No.82637

+1cc to Mr.D.Venkatachalam, Advocate SR.No.82550

CMA.No.1435 of 2013

BR(CO)
GMY(12/03/2020)



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