

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.12.2019

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.1937 of 2013

D.Poongodi

... Appellant/Petitioner

Vs

The Managing Director,
TNSTC. Ltd.,
Bharathipuram, Dharmapuri

... Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the Judgment and decree dated 21.10.2010 in MCOP No.1755 of 2006 passed by the Motor Accidents Claims Tribunal/Chief Judicial Magistrate, Krishnagiri.

For appellant : Mr.M.Sriram
For respondent : Mr.D.Venkatachalam

J U D G M E N T

This appeal has been filed by the appellant/claimant seeking enhancement of the compensation awarded by the Motor Accidents Claims Tribunal/Chief Judicial Magistrate, Krishnagiri in MCOP No.1755 of 2006 dated 21.10.2010.

2. It is the case of the appellant that on 12.12.2003, the appellant/claimant was travelling in the Corporation Bus bearing Registration No.TN 29 N 0892 belonging to the respondent. From Thali to Hosur along with other passengers. The driver of the bus was driving the said bus in a rash and negligent manner and the driver lost control due to over speed in the damages road and capsized on the opposite side of the Christian Burial ground. As a result, the appellant sustained grievous injuries and admitted in Government Hospital, Hosur as inpatient. Subsequently, she had admitted in Victoria Hospital, Bangalore for further treatment. Hence, the appellant has filed a claim petition before the Tribunal against the respondent/Corporation, claiming a sum of Rs.72,000/- as compensation.

In order to prove her claim, the appellant has examined as many as two witnesses viz., P.W.1 and P.W.2 and marked five documents viz., Ex.P1 to Ex.P5. On the side of the respondent, one witness was examined and no evidence was adduced. After

analyzing the evidences, the Tribunal has come to the conclusion that the accident had taken place due to the rash and negligent driving of the driver of the bus. The Tribunal has awarded a sum of Rs.72,000/- as compensation.

3. Not being satisfied with the quantum of compensation awarded by the Tribunal, the appellant has come forward with this appeal before this Court.

4. The learned counsel for the appellant would submit that due to the accident, the appellant suffered grievous injury on her right side chest, shoulder, right side hip, head and right knee. After the accident, she is not able to sit, stand and walk freely. She gets pain on her chest. Because of this, her future earning power is totally affected. P.W.2 Doctor has assessed the disability as 35%. But the Tribunal has reduced the percentage of the disability as 25% and awarded a very meager amount as compensation on the other heads also. The Tribunal, without considering all these facts, awarded a very low amount as compensation, which warrants of this Court.

5. Per contra, the learned counsel appearing for the respondent/ Transport Corporation submitted that the appellant was not at all traveled in the said bus at the time of accident and not produced any documentary evidence to prove her claim. The Tribunal has awarded the compensation amount on higher side and it needs no interference.

6. Heard the learned counsel for the appellant as well as the respondent/Transport Corporation and also perused the materials available on record before this Court.

7. From the materials on record, it seen that the Tribunal reduced the percentage of the disability as assessed by P.W.2 Doctor from 35% to 25%. The appellant has suffered 35% of disability due to the injuries sustained by him in the accident and the reason given by the Tribunal for reducing the percentage of disability is not correct. The Tribunal has awarded a sum of Rs.50,000/- for permanent disability and this Court is inclined to enhance the same at Rs.60,000/-.

8. The Tribunal has awarded a sum of Rs.7,000/- towards transport, Attender Charges and Extra Nourishment. Considering the cost of living prevailing as on date and considering the nature of injuries, a sum of Rs.15,000/- is enhanced instead of Rs.7,000/- towards transport, Attender Charges and Extra Nourishment. The sum of Rs.15,000/- awarded towards Pain and sufferings is confirmed. The compensation awarded by the Tribunal is modified as follows:

Sl.No	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)
1	Permanent disability	50,000/-	60,000/-
2	Pain and sufferings	15,000/-	15,000/-
3	Transportation, Extra nourishment and Attender charges	7,000/-	15,000/-
	Total	72,000/-	90,000/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.72,000/- is hereby enhanced to Rs.90,000/-, with interest at the rate of 7.5% per annum from the date of petition till the date of realization. The respondent/Transport Corporation is directed to deposit the enhanced award amount with interest, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the appellant is permitted to withdraw the enhanced award amount, along with interest and costs, less the amount if any, already withdrawn. No costs.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To

The Chief Judicial Magistrate,
Motor Accidents Claims Tribunal,
Krishnagiri.

Copy to

The Section officer
VR Section
High Court, Madras 104.

+1 CC to Mr.Mukund R. Pandiyan, Advocate sr 102091.

+1 CC to Mr.D.Venkatachalam, Advocate sr 102149.

C.M.A.No.1937 of 2013

RJI (CO)

SP(01/09/2020)