

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.NO.2291 OF 2015

Selvarani

... Appellant

Vs

The Managing Director,
Tamilnadu State Transport Corporation,
Valudareddy,
Villupuram.

... Respondent

Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 31.03.2015 made in M.C.O.P.No.604 of 2013, on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Judge, Vriddhachalam.

For Appellant : Mr.S.Udayakumar

For Respondent : Mr.K.J.Sivakumar

JUDGMENT

According to the appellant/claimant, on 02.09.2013 at about 17.00 hours, he was travelling in the bus bearing Reg.No.TN-32-N-1935 belonging to the respondent Transport Corporation towards Vriddhachalam from Viruthakirikuppam. When the bus reached near Murugan Nursery Pudukooraipettai, due to the rash and negligent driving of the driver of the bus on the uneven rough road, the left back side tyre got burst and consequently the wooden platform of the bus above the said tyre had broken and due to the same, the fourth and fifth finger of the claimant's left leg were severed. She also sustained grievous crush injuries in both the legs. Stating that the accident had occurred only due to the rash and negligent driving of the driver of the bus, the appellant filed a claim petition, claiming compensation of Rs.7,00,000/-. The Tribunal, after considering the oral and documentary evidence, awarded a total compensation of Rs.1,62,478/- with interest at the rate of 7.5% per annum from the date of petition.

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 awarded a lesser sum of Rs.80,000/- towards "Permanent disability" and the same needs to be enhanced. The learned counsel further submitted that the compensation awarded under other heads are also meagre and that the Tribunal did not consider the gravity of injuries suffered by the appellant/claimant, while awarding the compensation.

4.Per contra, the learned counsel for the respondent/ Transport Corporation has submitted that after properly analysing the materials and evidence, the Tribunal has awarded the compensation, which is just and reasonable and hence, the same does not require any interference in the hands of this Court.

5.Heard the learned counsel on either side and perused the materials available on record.

6.This is a claimant's appeal seeking enhancement of the compensation awarded by the Tribunal. Hence, this Court is not inclined to go into the findings of the Tribunal with respect of negligence as well as the liability of the respondent Transport Corporation to pay compensation.

7.The appellant/claimant was examined as P.W.1 before the Tribunal. She deposed before the Tribunal that at the time of accident, she was 32 years old and was earning a sum of Rs.15,000/- per month as a Coolie; that due to the impact of the accident, she sustained amputation of 4th and 5th toe of the left foot, crush injury in the left foot and the movement of the 1st, 2nd and 3rd toes of the left leg was restricted. She also deposed that she sustained multiple injuries all over the body. The doctor, who treated the claimant, was examined as P.W.2 and according to him, the appellant/claimant sustained 40% permanent disability. Ex.P9 is the Disability Certificate and Ex.P3 is the Wound Certificate. The Tribunal has awarded a sum of Rs.80,000/- towards permanent disability at the rate of Rs.2,000/- per percentage of disability, which appears to be inadequate and it would be appropriate to award a sum of Rs.3,000/- per percentage of disability. If that is done, the amount towards disability works out to Rs.1,20,000/- and accordingly, the compensation awarded by the Tribunal towards permanent disability stands modified to Rs.1,20,000/-. Further, considering the nature of the injuries sustained and the period of treatment undergone by the appellant/claimant, this Court is of the considered view that awarding a sum of Rs.10,000/- in

addition to the amount awarded by the Tribunal towards pain and suffering and also awarding a sum of Rs.5,000/- towards loss of amenities, would meet the ends of justice. The amounts awarded by the Tribunal towards other heads are reasonable and hence the same are confirmed. The details of the modified compensation are as follows:

Heads	Amount (Rs.)
Permanent disability	1,20,000/-
Pain and suffering	30,000/-
Attender charges	15,000/-
Extra nourishment	15,000/-
Medical expenses	4,478/-
Transportation	10,000/-
Loss of income	18,000/-
Loss of amenities	5,000/-
Total	2,17,478/-

Thus the appellant / claimant is entitled to the modified compensation of Rs.2,17,478/- with interest at the rate of 7.5% per annum from the date of petition. It is made clear that the claimant has to pay the appropriate Court fee in order to receive the awarded amount.

8.The appeal is allowed to the extent indicated above. No costs. The respondent Transport Corporation is directed to deposit the modified amount of compensation, as ordered above, after deducting the amount, if any, already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant / claimant is permitted to withdraw the same on making proper application before the Tribunal.

Sd/-
Assistant Registrar(CO)
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Sub Assistant Registrar

av/km

To

1. The Principal Subordinate Judge,
Motor Accidents Claims Tribunal,
Vridhachalam.

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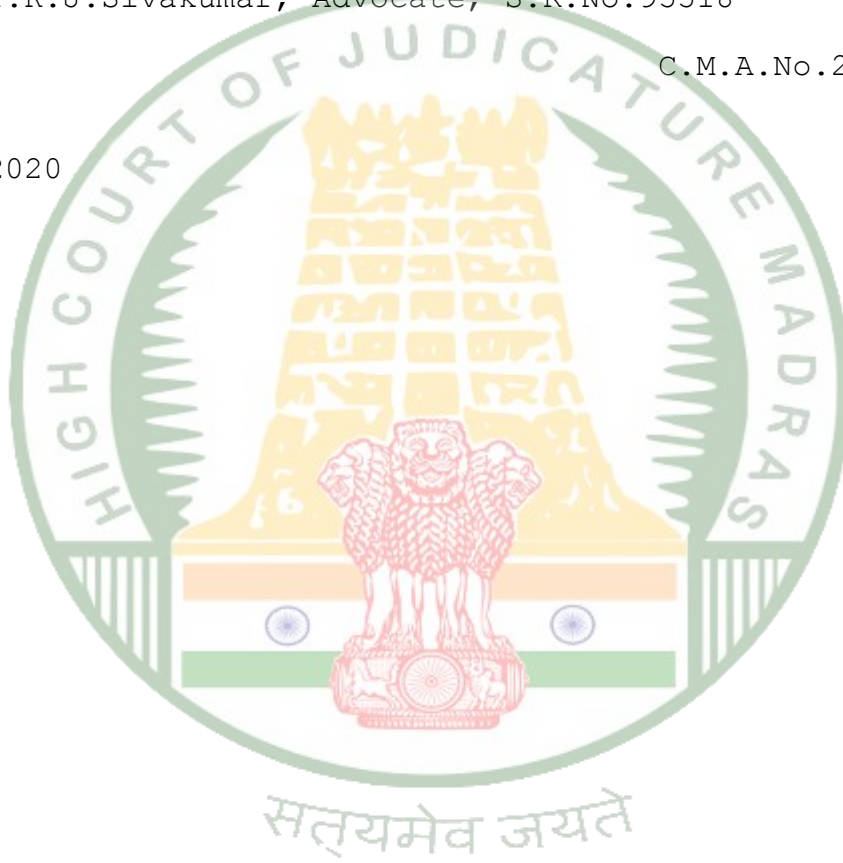
The Section Officer,
VR Section, Madras High Court.

+1cc to Mr.S.Udayakumar, Advocate, S.R.No.95454

+1cc to Mr.K.J.Sivakumar, Advocate, S.R.No.95518

C.M.A.No.2291 of 2015

GP (CO)
CS/01/10/2020



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