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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.02.2019

CORAM:

THE HON'BLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1365 of 2019

Rukmani

...Appellant/Petitioner

Vs

The Managing Director,  
Tamil Nadu State Transport Corporation Ltd,  
12, Ramakrishna Road,  
Salem - 636 007.

...Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 08.06.2018 made in M.C.O.P.No.200 of 2014 on the file of the Motor Accident claims Tribunal, Sub Court, Tiruchengode.

For Appellant : Mr.T.S.Arthanareeswaran

For Respondent : Mr.D.Venkatachalam

#### J U D G M E N T

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the award dated 08.06.2018 made in M.C.O.P.No.200 of 2014 on the file of the Motor Accidents claims Tribunal, Sub Court, Tiruchengode.

2.By consent of both parties, the civil miscellaneous petition is taken up for final disposal at the admission stage itself.

3.The appellant is claimant in M.C.O.P.No.200 of 2014 on the file of the Motor Accidents claims Tribunal, Sub Court, Tiruchengode. She filed the said claim petition claiming a sum of Rs.15,00,000/- as compensation for the injuries sustained by her in the accident that took place on 09.08.2013. The Tribunal



considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by the driver of the bus belonging to the respondent-Transport Corporation and directed the respondent to pay a sum of Rs.63,588/- as compensation to the appellant. Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

4.The learned counsel appearing for the appellant contended that the Tribunal having fixed negligence on the part of the driver of the bus belonging to the respondent-Transport Corporation, awarded only meagre sum of Rs.63,588/- as compensation to the appellant. The appellant was in hospital, has taken treatment as in-patient from 09.08.2013 to 15.08.2013 and was treated conservatively. The Tribunal has not awarded any amount towards attendant charges, loss of amenities and transportation. Due to the injuries sustained by the appellant she lost her entire earning power and prayed for enhancement of compensation.

5.Per contra, Mr.D.Venkatachalam, the learned counsel appearing for the respondent contended that the appellant suffered only simple injuries and was treated conservatively. The appellant was referred to Medical Board. The Medical Board certified that the appellant has not suffered any disability and issued nil disability. In view of the same, the compensation granted by the Tribunal is not meagre and prayed for dismissal of the appeal.

6.Heard learned counsel appearing for the appellant as well as the respondent and perused the materials available on record.

7.From the materials on record, it is seen that the appellant contended that the appellant was doing tender coconut selling business and was earning a sum of Rs.13,000/- per month. The appellant has not filed any documents to prove her avocation and income. In the absence of any material the Tribunal has fixed a sum of Rs.6,000/- per month as notional income of the appellant and considering the nature of injuries held that the appellant could have not worked for three months and granted a sum of Rs.18,000/- towards loss of earning and awarded compensation for medical expenses, extra nourishment and pain and suffering. The appellant was in hospital from 09.08.2013 to 15.08.2013 for the period of 1 week. The Tribunal has not awarded any amount towards attendant charges, loss of amenities,



damages to cloth and transportation. A sum of Rs.10,000/- each granted towards attendant charges and loss of amenities. A sum of Rs.1,000/- and Rs.5,000/- granted towards damages to cloth and transportation respectively. The appellant has not proved her loss of earning power. In view of the same the appellant is not entitled for any other enhancement. The amounts awarded by the Tribunal under other heads are confirmed. Thus the amount awarded by the Tribunal are modified as follows:

| S.No | Description                          | Amount awarded by Tribunal (Rs) | Amount awarded by this Court (Rs) | Award confirmed or enhanced or granted |
|------|--------------------------------------|---------------------------------|-----------------------------------|----------------------------------------|
| 1.   | Loss of Earning                      | 18,000                          | 18,000                            | Confirmed                              |
| 2.   | Medical Bills                        | 10,587.72                       | 10,587.72                         | Confirmed                              |
| 3.   | Extra Nourishment                    | 10,000                          | 10,000                            | Confirmed                              |
| 4.   | Pain and Sufferings and Mental Agony | 25,000                          | 25,000                            | Confirmed                              |
| 5.   | Attender Charge                      | -                               | 10,000                            | Granted                                |
| 6.   | Loss of Amenities                    | -                               | 10,000                            | Granted                                |
| 7.   | Transportation                       | -                               | 5,000                             | Granted                                |
| 8.   | Damages of Cloth                     | -                               | 1,000                             | Granted                                |
|      | Total                                | 63,587.72                       | 89,587.72                         | Enhanced by Rs.26,000/-                |

8. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.63,587.72/- is hereby enhanced to Rs.89,587.72/- along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation. The respondent-Transport Corporation is directed to deposit the enhanced award amount now determined by this Court, together with interest and cost less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of



a copy of this judgment. 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 by filing necessary applications before the Tribunal. No costs.

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s/d-  
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

jas/rst

To

1.The Motor Accidents Claims Tribunal,  
Subordinate Judge, Tiruchengode.

2.The Section Officer,  
V.R.Section,  
High Court, Madras.

+2 CCS to Mr.T.S.Arthanareeswaran, Advocate sr 17134.

+1 CC to Mr.D.Venkatachalam, Advocate sr 18097.

C.M.A.No.1365 of 2019

AK(CO)  
SP(28/08/2019)