

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 20.09.2018

Delivered on : 25.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.M.A.No.3479 of 2017

Jayalakshmi ... Appellant

Vs

The Managing Director,
Metropolitan Transport Corporation,
Chennai-600 002. ... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 23.06.2017 made in MCOP.No.2872 of 2009 on the file of Motor Accident Claims Tribunal at Chennai, II Small Causes Court, Chennai dealing with M.C.O.P. cases.

For Appellant : Mr.T.G.Ravichandran

For Respondent : Mr.K.S.Suresh

JUDGMENT

This Civil Miscellaneous Appeal has been preferred by the claimant aggrieved over the award of Rs.75,000/- passed by the learned II Motor Accident Claims Tribunal (II Court of Small Causes) Chennai for the injuries sustained by her in the accident which occurred on 15.04.2009 at about 10.45 hours in the entrance of Broadway Bus stop while she was trying to get down from MTC bus belonging to the respondent, driven in a rash and negligent manner.

2.I heard Mr.T.G.Ravichandran, learned counsel for the appellant and Mr.K.S.Suresh, learned counsel for the respondent and perused the entire materials available on record.

3.The only issue is with regard to the quantum of compensation awarded by the Tribunal since the claimant alone.

4.The learned counsel appearing for the appellant/claimant contends that the Tribunal awarded very meager amount as compensation. The partial and permanent disability, future prospects and other aspects were not considered properly by the Tribunal. Hence, the appellant seeks enhancement of the award amount by entertaining the appeal.

5.Per contra, the learned counsel for the respondent contended that the Tribunal without appreciating the evidence properly, wrongly awarded huge amount as compensation and the same is unsustainable. Thus the respondent seeks dismissal of this appeal.

6.The claimant suffered left Tibia Plateau Fracture and multiple injuries and first aid at Madras High Court Hospital and admitted in Billroth Hospital as inpatient from 15.04.2009 to 22.04.2009 where surgery was done to her on 16.04.2009, plate and screw fixed. The medical witness / PW2 Dr.J.R.R.Thiyagarajan assessed the disability sustained by the claimant and Ex.P12 is the Disability Certificate issued by him. Ex.P4, the Discharge summary issued by Billroth Hospital, Shenoy Nagar, Chennai-30 where the claimant was treated, which reveals the nature of injuries suffered by the claimant. Therefore, based on the evidence of witness and the other medical records namely, Exs.P4, P6 and P12, but the Tribunal has not rightly consider the disability of claimant determined the disability at 15%. Though the claimant sustained 50% disability as well as injuries the petitioner is faced so much difficult to lead her day to day life, therefore this Court has taken the partial permanent disability occurred to the petitioner at 45% and sum of Rs.3,000/- per percentage is fixed as compensation and hence a sum of $\text{Rs.3,000} \times 45 = 1,35,000/-$, the petitioner had filed Ex.P5 medical bills to the tune of Rs.16,440/-. The learned counsel for the respondent would oppose the bills as excessive. I have carefully gone through and verified the medical bills. I do not find any discrepancy. So, on the head of medical expenses a sum of Rs.16,440/- is considered, no amount was awarded by the Tribunal towards loss of earning in the treatment and bed rest period, the petitioner working as Assistant in City Government Pleader office, Ex.P7 Identification Card and Ex.P8 Salary bills and there is no contra evidence to disprove the same, towards loss of earning she must be granted compensation atleast for a period of four months, this determined at Rs.60,000/- a sum of Rs.2000/- awarded towards attender charges is low and the same as enhanced to Rs.10,000/-, a sum of Rs.5,000/- towards transport charges is low and the same as enhanced to Rs.15,000/-, a sum of Rs.5,000/- towards extra-nourishment is

confirmed. The sum of Rs.10,000/- awarded towards pain and suffering is low and the same is enhanced to Rs.50,000/-. Hence, the awarded of Rs.75,267/- granted by the Tribunal is enhanced to Rs.2,91,440/-. The award amount will carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit. In view of the above modified award amount, the respondent is directed to deposit the award amount, less the amount if any already deposited along with accrued interest within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit, the claimant is permitted to withdraw the amount awarded as above by filing proper application before the Tribunal. The Tribunal shall pass appropriate directions for the disbursal of the amount as stated supra on the filing of such application to the personal savings bank account of the appellant through RTGS/NEFT system. In other aspects the award of the Tribunal is confirmed.

7. In the result, this Civil Miscellaneous Appeal is partly allowed in the above observations. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1. The Motor Accident Claims Tribunal/
II Small Causes Court, Chennai.

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

+1cc to M/S.T.G.Ravichandran, Advocate Sr.17281

+1cc to M/S.K.S.Suresh, Advocate Sr.16883

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srg 24/04/2019