

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2020

CORAM:

THE HON'BLE MRS.JUSTICE V. BHAVANI SUBBAROYAN

C.M.A.No. 706 of 2009

C.Sivagami

.... Appellant/Petitioner

Vs.

The General Manager,
Heavy Vehicles Factory,
Avadi, Chennai 54.

.... Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 28.06.2006 made in MCOP No.804 of 2000 on the file of the Motor Accident Claims Tribunal cum Fast Tract Court No.III, Chennai.

For Appellant : Mr.A.N.Viswanatha Rao

For Respondent : Mr.C.V.Ramachandra Moorthy

J U D G M E N T

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 28.06.2006 made in MCOP No.804 of 2000 on the file of the Motor Accident Claims Tribunal cum Fast Tract Court No.III, Chennai.

2.The appellant is claimant in M.C.O.P.No.804 of 2000 on the file of the Motor Accident Claims Tribunal cum Fast Tract Court No.III, Chennai. She filed the said claim petition claiming a sum of Rs.7,00,000/- as compensation for the injuries sustained by her in the accident that took place on 12.08.1999.

3.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the lorry belonging to the respondent and directed the respondent to pay a sum of Rs.87,100/- as compensation to the appellant.

4.Not being satisfied with the quantum of compensation awarded by the Tribunal, the appellant has come out with the

present appeal seeking enhancement of compensation.

5.The learned counsel appearing for the appellant/claimant contended that the appellant was aged 45 years at the time of accident and was earning a sum of Rs.200/- per day by a beach vendor. The appellant could not continue her work as she was doing before the accident. The Tribunal without considering the same, fixed only a meagre sum of Rs.2,000/- as monthly income of the appellant and awarded a sum of Rs.16,000/- towards loss of income for a period of eight months. The appellant sustained fracture of right leg and multiple injuries all over the body. P.W.2/Doctor has assessed the disability of the appellant at 40%. The Tribunal has awarded a meagre compensation of Rs.40,000/- towards permanent disability at the rate of Rs.1,000/- per percentage. The amounts awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

6.Per contra, the learned counsel appearing for the respondent contended that the appellant sustained only simple injuries and she was recovered from all ailments in the accident. The Tribunal after considering all the materials available on record, has awarded just compensation, which is not meagre. The appellant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

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

8.It is the contention of the appellant, that she suffered injuries in the accident that occurred on 12.08.1999. The appellant has taken treatment in Hospital as an in-patient from 12.08.1999 to 20.11.1999. According to the appellant, she sustained fracture of right leg and multiple injuries all over the body. The appellant examined P.W.2/Doctor to prove the nature of injuries and treatment taken by him. After examining the appellant, P.W.2/Doctor has certified that the appellant suffered 40% permanent disability. The Tribunal accepting the evidence of P.W.2/Doctor, fixed the disability of the appellant at 40% and awarded a sum of Rs.40,000/- towards disability at the rate of Rs.1,000/- per percentage of disability. The accident is of the year 1999 and the compensation awarded by the Tribunal towards disability is proper and the same does not warrant any interference by this Court.

9.According to the appellant, she was aged 45 years at the time of accident. The appellant examined herself as P.W.1 and

she deposed that she was earning a sum of Rs.200/- per day by a beach vendor. The appellant failed to prove the said contention. In the absence of any material evidence, with regard to avocation and income of the appellant, the Tribunal has fixed a sum of Rs.2,000/- per month as notional income of the appellant and granted Rs.16,000/- towards loss of income for a period of 8 months and the same is proper and the same does not warrant any interference by this Court. The Tribunal has awarded a sum of Rs.1,000/- altogether towards transportation and extra nourishment which is meagre. Considering the nature of injuries and period of treatment taken by her, a sum of Rs.5,000/- is enhanced towards transportation and a sum of Rs.5,000/- is enhanced towards extra nourishment. The amount awarded by the Tribunal towards pain and sufferings is meagre and hence the same is hereby enhanced to Rs.30,000/-/-.. A sum of Rs.10,000/- awarded by the Tribunal towards attendant charges is excessive and the same is reduced to Rs.2,000/-. The amounts awarded by the Tribunal under other heads are just and reasonable and hence the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Disability	40,000	40,000	Confirmed
2.	Transport expenses	5,000	5,000	Enhanced
	Extra nourishment	1,000	5,000	
3.	Pain & sufferings	20,000	30,000	Enhanced
4.	Medical expenses	100	100	Confirmed
5.	Loss of income	16,000	16,000	Confirmed
6.	Attendant charges	10,000	2,000	Reduced
	Total	Rs.87,100/-	Rs.98,100/-	Enhanced by Rs.11,000/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at

Rs.87,100/- is hereby enhanced to Rs.98,100/- together 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 is directed to deposit the enhanced award amount now determined by this Court along with interest and costs, less the amount already deposited if any, within a period of six 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. No costs.

Sd/-

Assistant Registrar (CO)

//True copy//

Sub Assistant Registrar

vkrr

To

1. The Motor Accident Claims Tribunal cum III Judge of Fast Track Court, Chennai.

Copy To : The Section Officer,
V.R. Section
High Court, Madras.

+1cc to Mr.C.V.Ramachandra Moorthy, Advocate SR.No.538

C.M.A.No. 706 of 2009

PP (CO)

GMV (09/04/2021)

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