

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.06.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1092 of 2020

Jayalakshimi

... Appellant/Petitioner

Vs.

The Managing Director,
The Tamilnadu State Transport Corporation Limited,
Villupuram. ... Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 16.12.2019 made in M.C.O.P.No.2676 of 2010 on the file of the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai.

For Appellant : Mr.S.N.Subramani

For Respondent : Mr.K.J.Sivakumar

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 16.12.2019 made in M.C.O.P.No.2676 of 2010 on the file of the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai.

2. The appellant is the claimant in M.C.O.P.No.2676 of 2010 on the file of the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai. She filed the above said claim petition, claiming a sum of Rs.6,00,000/- as compensation for the injuries sustained by her in the accident that took place on 24.03.2010.

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 bus belonging to the respondent-Transport Corporation and directed the respondent-Transport Corporation to pay a sum of Rs.2,84,310/- as compensation to the appellant.

4. Not being satisfied with the amounts 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 contended that in the accident, the appellant has sustained grievous injuries and has taken treatment as in-patient for 11 days at Lifeline Multi Speciality Hospital, Perungudi, Chennai, from 24.03.2010 to 03.04.2010. To prove the nature of injuries, the appellant examined P.W.2/Doctor. P.W.2/Doctor certified that appellant suffered 45% disability and issued Ex.P10/disability certificate to that effect. The Tribunal, without giving any valid reason reduced the percentage of disability to 25% on the ground that P.W.2/Doctor is not the doctor who treated the appellant. The amount awarded by the Tribunal towards pain and sufferings is meagre. The Tribunal erroneously rejected the medical bill for a sum of Rs.30,000/-. The total compensation awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

6. Per contra, Mr.K.J.Sivakumar, learned counsel appearing for the respondent-Transport Corporation contended that the Tribunal considering the evidence and materials on record, reduced the percentage of disability to 25% and awarded compensation under different heads, which are 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 the learned counsel appearing for the respondent-Transport Corporation and perused the entire materials on record.

8. It is the contention of the appellant that in the accident she sustained multiple injuries and fracture. To prove the nature of injuries, she examined P.W.2/Doctor, who deposed that the appellant suffered fracture and had pain and stiffness on the right thigh, knee and right ankle and movements were restricted and issued Ex.P10/disability certificate to that effect. The respondent-Transport Corporation did not let in any evidence to disprove the evidence of P.W.2/Doctor and Ex.P10/disability certificate. The Tribunal reduced the percentage of disability from 45% to 25% on the ground that P.W.2/Doctor is not the Doctor who treated the appellant and also P.W.2/Doctor has not produced working sheet and guidelines for arriving the percentage of disability. The reason given by the Tribunal for reducing the percentage of disability is not correct. The appellant is entitled to compensation for 45% disability. The accident

occurred in the year 2010 and the Tribunal has awarded a sum of Rs.2,000/- per percentage of disability. The appellant is entitled to a sum of Rs.3,000/- per percentage of disability. Accordingly, the compensation awarded by the Tribunal towards disability is modified to Rs.1,35,000/- (Rs.3,000/- X 45% disability). The appellant has taken treatment as in-patient for 11 days at Lifeline Multi Speciality Hospital, Perungudi, Chennai, from 24.03.2010 to 03.04.2010 and the Tribunal has awarded a meagre sum of Rs.2,200/- towards attendant charges. Considering the nature of injuries and period of treatment, the amount awarded by the Tribunal towards attendant charges is enhanced to Rs.5,000/-. The amounts awarded by the Tribunal towards medical expenses, future medical expenses, pain and sufferings, transportation, extra nourishment, damages to clothes and loss of amenities 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	50,000/-	1,35,000/-	Enhanced
2.	Pain and sufferings	20,000/-	20,000/-	Confirmed
3.	Extra nourishment	10,000/-	10,000/-	Confirmed
4.	Transportation	5,000/-	5,000/-	Confirmed
5.	Medical expenses	1,36,110/-	1,36,110/-	Confirmed
6.	Future Medical expenses	40,000/-	40,000/-	Confirmed
7.	Attendant charges	2,200/-	5,000/-	Enhanced
8.	Damages to clothes	1,000/-	1,000/-	Confirmed
9.	Loss of amenities	20,000/-	20,000/-	Confirmed
	Total	Rs.2,84,310/-	Rs.3,72,110/-	enhanced by Rs.87,800/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,84,310/- is hereby enhanced to Rs.3,72,110/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The respondent-Transport Corporation 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 twelve weeks from

the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.2676 of 2010 on the file of the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai. On such deposit, the appellant is permitted to withdraw the enhanced award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

- 1.The IV Judge,
Motor Accident Claims Tribunal,
Small Causes Court,
Chennai.
- 2.The Section Officer,
VR Section,
High Court,
Madras.

C.M.A.No.1092 of 2020

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