



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2020

CORAM:

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THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

C.M.A.No.1564 of 2020

Mallika

..Appellant

Vs.

The Managing Director,
Tamilnadu State Transport Corporation Ltd.,
No.12, Ramakrishna Road, Salem - 7.

..Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Order and Decree dated 16.08.2019, made in M.C.O.P.No.866 of 2018, on the file of the Motor Accident Claims Tribunal, Special Subordinate Court No.1, Salem.

For Appellant	:	Mr.T.S.Arthanareeswaran
For Respondent	:	Mr.D.Raghu

J U D G M E N T

Not fully satisfied with the compensation awarded by the Motor Accident Claims Tribunal, the appellant/claimant is before this Court with this appeal seeking enhancement of compensation.

2. The case of the appellant/claimant before the Tribunal was that, on 02.01.2018, at about 09.30 a.m., while getting down from the bus bearing Registration No. TN-27-N-1658, belonging to the respondent transport corporation, the driver of the bus without noticing the same, moved the bus in a rash and negligent manner, in which, the appellant/claimant fell down and the back wheel of the bus ran over the claimant's leg. Immediately, she was taken to Thiruchengode Government hospital and after getting first aid, she was admitted in the Government hospital, Erode. Thereafter, she was referred to Government Medical College Hospital, Salem. Since she suffered serious injuries in both the legs, her right leg was amputated upto the knee and three surgeries were done on her left leg for multiple fractures. At the time of the accident, the appellant/claimant was 45 years old and she was earning a sum of Rs.9,000/- as agricultural coolie. Due to the accident, she suffered 80% permanent disability. Hence, claiming a sum of Rs.15,00,000/- as compensation she filed the claim petition before the Tribunal.



3. The respondent transport corporation contested the claim petition stating that the appellant/claimant was travelling in the foot board and tried to get down from the moving bus and fell down, and only due to her negligence, she suffered injuries and the driver of the bus cannot be blamed for that. That apart, the respondent has also disputed the monthly income of the appellant/claimant.

4. In order to prove the case, the appellant/claimant examined herself as P.W.1 and the Special Sub Inspector of Police, Thiruchengode was examined as P.W.2 and she also marked as many as nine exhibits as Exs.P1 to P9 . On the side of the respondent, the driver of the bus was examined as R.W.1 and no documents were marked. The disability certificate issued by the Medical Board has been marked as Ex.C1 and the X-rays were marked as Ex.C2.

5. The Tribunal after considering the materials available on record, came to the conclusion that the accident had taken place due to the rash and negligent driving of the driver of the transport corporation. So far as the quantum of compensation is concerned, as the appellant/claimant had suffered 80% permanent disability applied multiplier method. The Tribunal fixed the monthly income of the appellant/claimant as Rs.4,500/- and arrived at a sum of Rs.7,56,000/- towards loss of future income; Rs.80,000/- was awarded towards pain and suffering; Rs.10,000/- was awarded towards medical expenses; Rs.30,000/- was awarded towards transport expenses; Rs.20,000/- was awarded towards extra nourishment; Rs.30,000/- was awarded towards attender benefits; Rs.1,000/- was awarded towards damage to clothes; and Rs.80,000/- was awarded towards loss of amenities. Thus, the Tribunal arrived at a total compensation of Rs.10,07,000/-. Being aggrieved with the said compensation awarded by the Tribunal, the appellant/claimant seeking enhancement has filed the present appeal before this Court.

6. I have heard the learned counsel on either side and also perused the records carefully.

7. The accident had taken place in the year 2018. The appellant / claimant is a lady, who was an agricultural coolie. In the accident, she suffered injuries on both of her legs, her right leg has been amputated upto knee and in her left leg there were multiple fractures, for which, she had undergone three surgeries and she was treated as an inpatient for nearly one

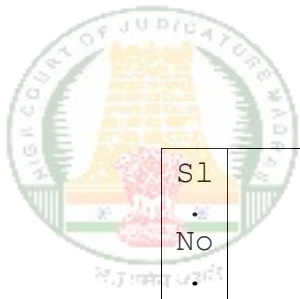


month, these facts are admitted. The Tribunal considering the nature of disability suffered by the appellant/claimant applied multiplier method by applying the principles laid down by the Hon'ble Supreme Court as well as a Division Bench of this Court in National Insurance Co.Ltd Vs. Senthilkumar reported in 2017 (2) TNMAC 725 (DB) and there is no dispute over the same.

8. The learned counsel appearing for the appellant/claimant would submit that the monthly income taken by the Tribunal is very low, as an agricultural coolie, the appellant/claimant would easily earn a sum of Rs.10,000/- per month. The Tribunal without any reason whatsoever fixed the monthly income as Rs.4,500/-. It is not disputed that the appellant/claimant is an agricultural coolie and it is also stated that she used to work in the MGNREGA 100 days work scheme. At the time of the accident, she was 45 years old.

9. Considering the above facts, this Court is of the view that the appellant/claimant could easily earn a sum of Rs.8,000/- per month. The Tribunal without any evidence whatsoever fixed the monthly income as Rs.4,500/-, which is very low and liable to be modified. While applying the multiplier method, as per the law laid down by the Hon'ble Supreme Court in Sarla Verma Vs. Delhi Transport Corporation reported in (2009) 6 SCC 121 and National Insurance Company Limited vs. Pranay Sethi and Ors reported in (2017) 16 SCC 680, 25% monthly income should be added towards loss of future prospects. Hence, the notional monthly income comes to Rs.10,000/- (Rs.8,000 + Rs.2,000) as the appellant/claimant suffered 80% permanent disability and she was aged about 45 years at the time of the accident, applying multiplier of 14, the future loss of income will be Rs.13,44,000/- ($10,000 \times 12 \times 14 \times 80 / 100 = 13,44,000$) instead of Rs.7,56,000/- awarded by the Tribunal. So far as pain and sufferings is concerned, her leg was amputated and she was admitted as inpatient for nearly two months, hence a sum of Rs.1,00,000/- is awarded instead of Rs.80,000/- awarded by the Tribunal. Towards medical expenses a sum of Rs.50,000/- is awarded instead of Rs.10,000/- awarded by the Tribunal. Towards extra nourishment a sum of Rs.30,000/- is awarded instead of Rs.20,000/- awarded by the Tribunal. In respect of other heads are concerned, the Tribunal has rightly granted compensation and there is no need to interfere with the same.

10. In view of the above, the compensation awarded by the Tribunal is modified as follows:



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Sl No	Description	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted or reduced (Rs.)
1.	Pain and sufferings	80,000	1,00,000	Enhanced
2.	Medical expenses	10,000	50,000	Enhanced
3.	Transport Expenses	30,000	30,000	Confirmed
4.	Extra nourishment	20,000	30,000	Enhanced
5.	Attender charges	30,000	30,000	Confirmed
6.	Damage to clothes	1,000	1,000	Confirmed
7.	Loss of amenities	80,000	80,000	Confirmed
8.	Loss of future income	7,56,000	13,44,000	Enhanced
	Total	10,07,000	16,65,000	Enhanced by Rs.6,58,000/-

11. In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation of Rs.10,07,000/- awarded by the Tribunal is hereby enhanced to Rs.16,65,000/- together with interest at the rate of 7.5 % per annum from the date of claim 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 eight weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.866 of 2018, on the file of the Motor Accident Claims Tribunal, Special Subordinate Court No.1, Salem. On such deposit, the appellant/claimant is permitted to withdraw the 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. The appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation now determined by this Court. No costs.

*Additional Court fee filed on 14/12/2020 vide USR 20077 enclosed

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,
Special Subordinate Court No.1, Salem.

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

+1cc to Mr.D.Raghu, Advocate, S.R.No.36277

C.M.A.No.1564 of 2020

GMR (CO)
KKV/29/07/2021