

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2062 of 2017

Sivagami

... Appellants /Petitioner

Vs.

1.Loganathan

2.The Managing Director,
Tamilnadu State Transport Corporation,
Chennimalairoad,
Erode.

... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 12.02.2014 made in M.C.O.P. No. 807 of 2012 on the file of the Motor Accident Claims Tribunal, Sub Court, Dharapuram.

For Appellant : Mr.V.Regunathan

For R2 : Mr.K.J.Sivakumar

For R1 : No appearance

JUDGMENT

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 12.02.2014 made in M.C.O.P. No.807 of 2012 on the file of the Motor Accident Claims Tribunal, Sub Court, Dharapuram.

2.The appellant is claimant in M.C.O.P. No.807 of 2012 on the file of the Motor Accident Claims Tribunal, Sub Court, Dharapuram. The appellant filed the said claim petition claiming a sum of Rs.4,00,000/- as compensation for the injuries sustained by her in the accident that took place on 29.05.2012.

3.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the 1st respondent/driver of the bus belonging to the 2nd respondent/Transport Corporation and directed the respondents to jointly and severally pay a sum of Rs.1,37,670/- 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/claimant contended that in the accident, the appellant's right upper hand was broken into small pieces, right rib No.3 and 4 was broken and caused multiple injuries all over her body. P.W.2/Doctor has assessed the disability of the appellant as 26%. The Tribunal, without any reason, fixed the disability of the appellant as 24%. The Tribunal has not awarded any compensation towards damages to clothes and attendant charges and prayed for enhancement of compensation.

6.Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the Tribunal after considering the materials available on record, has awarded just compensation. 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 2nd respondent/Insurance Company and perused all the materials available on record.

8.It is the contention of the appellant that the right upper hand of the appellant was broken into small pieces, right rib No.3 and 4 was broken and multiple injuries all over her body. P.W.2/Doctor has assessed the disability of the appellant as 26%. The Tribunal reduced the disability to 24% holding that the percentage of disability assessed by the doctor is after 2 years from the date of accident, which is not proper. The Tribunal has awarded a sum of Rs.48,000/- (Rs.2,000/- x 24%) towards disability at the rate of Rs.2,000/- per percentage of disability. The accident is of the year 2012. The appellant is entitled to compensation for 26% disability at the rate of Rs.3,000/- per percentage. Accordingly the amount awarded by the Tribunal towards disability is enhanced to Rs.78,000/- (Rs.3,000/- x 26%). The appellant has taken treatment as in-

patient in K.M.C.H. Hospital from 29.05.2012 to 04.06.2012. The Tribunal has not awarded any compensation towards attendant charges and damages to clothes. Considering the nature of injuries and treatment taken by the appellant, a sum of Rs.7,000/- and Rs.2,000/- is awarded towards attendant charges and damages to clothes respectively. The amounts awarded by the Tribunal towards extra nourishment and transportation are meagre and hence the same are enhanced to Rs.10,000/- and Rs.5,000/- towards extra nourishment and transportation respectively. The amounts awarded by the Tribunal under other heads are just and reasonable and 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 or reduced
1.	Pain and sufferings	20,000	20,000	Confirmed
2.	Extra nourishment	2,500	10,000	Enhanced
3.	Transportation charges	2,000	5,000	Enhanced
4.	Permanent disability	48,000	78,000	Enhanced
5.	Medical expenses	60,170	60,170	Confirmed
6.	Loss of amenities	5,000	5,000	Confirmed
7.	Attendant charges	-	7,000	Granted
8.	Damages to cloth	-	2,000	Granted
	Total	Rs.1,37,670/-	Rs.1,87,170/-	Enhanced by Rs.49,500/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,37,670/- is hereby enhanced to Rs.1,87,170/- 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 2nd 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 six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant/claimant 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

//True Copy//

Sub Assistant Registrar

To

1.The Subordinate Judge,
Motor Accident Claims Tribunal
Dharapuram.

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

+1cc to Mr.V.Regunathan, Advocate Sr.7607
+1cc to Mr.K.J.Sivakumar, Advocate Sr.8243

C.M.A.No.2062 of 2017

mr[co]
srg 28/08/2020

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