



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 14.12.2020

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THE HONOURABLE MR. JUSTICE S.S.SUNDAR
C.M.A.No.602 of 2017

A.Ambika

... claimant/Appellant

Versus

1.R.Somasundaram

(Since the first respondent was the driver of the
second respondent exparte notice may be dispensed with)

2.The Managing Director,
Tamil Nadu State Transport Corporation
Coimbatore Division,
Chennimalai Road,
Erode.

... Respondents/ Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor
Vehicles Act, 1988, against the order and decreetal order in
M.C.O.P.No.40 of 2014, dated 07.11.2016, on the file of the
Motor Accident Claims Tribunal/Subordinate Judge, Sathyamangalam.

For Appellant : Mr.S.Kamadevan

For Respondents : Mr.Aseen
for M/s.Sundaravadanan
for R2
Exparte-R1

JUDGMENT

This appeal is preferred by the claimant/injured for
enhancement of compensation awarded by the Motor Accident Claims
Tribunal/Surbordinate Judge, Sathyamangalam, in M.C.O.P.No.40 of
2014. The appellant met with an accident on 21.10.2013, while
she was travelling as a passenger in a bus belonged to Tamil
Nadu State Transport Corporation. The appellant was working as
an Agricultural Coolie. As a result of accident, the
petitioner sustained grievous injuries and she was admitted in
Coimbatore Medical College Hospital, Coimbatore. Due to crush
injury, the right leg below knee was amputated and she was in
hospital for nearly six months.



2. Though the appellant claimed to have earned a monthly salary of Rs.7,500/-, the Tribunal has fixed the monthly income of the appellant as Rs.3,000/-. The Tribunal awarded a sum of Rs.4,98,000/- in all as against the claim of Rs.15,00,000/-.

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3. Aggrieved by the quantum of compensation, the claimant/injured has preferred the above appeal.

4. Heard the arguments of the learned counsel appearing for the appellant as well as the learned counsel appearing for the respondents.

5. The accident was of the year 2013, a sum of Rs.4,500/- can be taken as notional income of the appellant. It is not in dispute that the appellant was an Agricultural Coolie and therefore, the loss of earning capacity will be reduced to 80%. Therefore, taking into consideration, the age of the appellant, she is entitled to a sum of $\text{Rs.4,500} \times 16 \times 12 \times 80 / 100 = \text{Rs.6,91,200/-}$ towards loss of earning capacity. Towards transportation, the Tribunal has allowed a sum of Rs.23,200/-. However, this Court grants a sum of Rs.23,000/- towards transport expenses. The sum of Rs.15,000/- towards extra nourishment and Rs.100/- towards medical bills are confirmed. The Tribunal has awarded a sum of Rs.10,000/- towards medical expenses and Rs.15,000/- towards attendant charges, which are also confirmed. Further, this Court is inclined to grant a sum of Rs.1,00,000/- towards pain and suffering. The claim towards loss of income cannot be awarded once the appellant is given the consolidated amount based on percentage of disability under the head of loss of earning capacity. A Further sum of Rs.1,50,000/- is awarded by this Court towards fixation of artificial leg.

6. Hence, this Court is of the view that a sum of Rs.10,04,300/- can be awarded in favour of the appellant.

7. As a result, the judgment and decree of the Motor Accident Claims Tribunal namely, Subordinate Judge, Sathiyamangalam, in M.C.O.P.No.40 of 2014, is set aside and modified by awarding a sum of Rs.10,04,300/- in favour of the appellant. The appellant is also entitled to interest at the rate of 7.5% per annum from the date of petition. The second respondent is directed to deposit the amount before the Tribunal within a period of eight weeks from the date of receipt of a copy of this order and on such deposit, the appellant/claimant is entitled to withdraw the same.



8. Civil Miscellaneous Appeal is allowed accordingly. No costs.

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Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

The Subordinate Judge,
Motor Accident Claims Tribunal,
Sathyamangalam.

+1cc to Mr.S.Kamadevan, Advocate SR.No. 41260

C.M.A.No.602 of 2017

A.SK(08.09.2021)