



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 21.12.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.3151 of 2011

A.Lakshmi Prabha

.. Appellant /Claimant

Vs

The Managing Director
Tamil Nadu State Transport Corporation Ltd.
Salem Division I
Salem-636 007.

.. Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 17.03.2005 made in M.C.O.P.No.1220 of 2003 on the file of Motor Accident Claims Tribunal, Principal District Court, Salem.

For Appellant : Mrs.K.Ponmani
for M/s.Zeenath Begum

For Respondent : Mrs.P.Rajathi
for Mr.D.Raghu

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 17.03.2005 made in M.C.O.P.No.1220 of 2003 on the file of Motor Accident Claims Tribunal, Principal District Court, Salem.

2.The appellant is the claimant in M.C.O.P.No.1220 of 2003 on the file of Motor Accident Claims Tribunal, Principal District Court, Salem. She filed the said claim petition claiming a sum of Rs.27,00,000/- as compensation for the injuries sustained by her in the accident that took place on 17.04.2003.

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 and directed the respondent/Transport Corporation to pay a sum of Rs.5,03,000/- 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 suffered injuries on her head, right leg, fracture in the collar bone and multiple injuries all over the body. Due to the injuries, her right leg above knee was amputated and her eye sight has been reduced. P.W.4/Doctor after examining the appellant, certified that the appellant suffered 80% disability and marked the disability certificate as Ex.A15. The Tribunal without considering the same, awarded only a lumpsum of Rs.2,25,000/- as compensation towards permanent disability. At the time of accident, the appellant was earning a sum of Rs.8,000/- per month by doing silver business. Due to the injuries, she could not do the work as she was doing earlier. The Tribunal has awarded only a meagre sum of Rs.10,000/- towards loss of income. The appellant took treatment as in-patient in Vidya Hospital, Salem, from 17.04.2003 to 19.04.2003 and thereafter, took treatment as in-patient in Manipal Hospital, Bangalore, from 19.04.2003 to 08.05.2003. The Tribunal has not awarded any compensation towards attendant charges. 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/Transport Corporation contended that the Tribunal considering the materials placed before it, awarded compensation, which are not meagre. The Tribunal granted compensation along with interest at the rate of 9% per annum, which is excessive. 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.

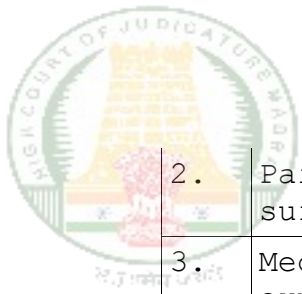
8. From the materials on record, it is seen that it is the contention of the appellant that she suffered head injury, popliteal artery injury with advanced irreversible ischemia with myonecrosis of right leg, fracture in the collar bone and multiple injuries all over the body. Due to the injuries in head and right leg, her eye sight has been reduced and right leg above knee was amputated. To prove the same, the appellant examined the Doctor as P.W.4 and marked the disability



certificate as Ex.A15. P.W.4/Doctor certified that the appellant suffered 80% disability. Though the Tribunal accepted the disability assessed by P.W.4/Doctor, granted only a lumpsum of Rs.2,25,000/- towards permanent disability. Considering the fact that the right leg of the appellant above knee was amputated, this Court adopts multiplier method to award compensation towards permanent disability by fixing 80% disability. The appellant has contended that at the time of accident, she was doing silver business and was earning a sum of Rs.8,000/- per month. The appellant failed to prove the said contention. In the absence of any material evidence with regard to monthly income, the Tribunal fixed a sum of Rs.6,000/- per month as notional income of the appellant and the same is on the higher side. The accident is of the year 2003. Hence, a sum of Rs.3,000/- per month is fixed as notional income of the appellant. The appellant was aged 35 years at the time of accident. As per the judgment of the Hon'ble Apex Court reported in 2009 (2) TNMAC 1 SC Supreme Court (Sarla Verma vs. Delhi Transport Corporation), the multiplier applicable is '16'. Thus, the compensation awarded by the Tribunal towards permanent disability is modified to Rs.4,60,800/- (Rs.3,000/- X 12 X 16 X 80/100).

8(i) Immediately after the accident, the appellant was admitted in Government Hospital, Sengam. Thereafter, she took treatment as in-patient in Vidya Hospital, Salem, from 17.04.2003 to 19.04.2003 and thereafter, in Manipal Hospital, Bangalore, from 19.04.2003 to 08.05.2003. To prove the same, the appellant marked the discharge summaries as Exs.A7 and A8. The Tribunal has not awarded any compensation towards attendant charges. Considering the nature of injuries and period of treatment taken by the appellant, a sum of Rs.20,000/- is awarded as compensation towards attendant charges. The amounts awarded by the Tribunal under all other heads are just and reasonable and hence, the same are hereby confirmed. The Tribunal granted compensation along with interest at the rate of 9% per annum from the date of petition till the payment. The appellant is entitled to interest at the rate of 7.5% per annum only for the enhanced amount of compensation. Thus, the compensation awarded by the Tribunal is modified as follows:

S.N o	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1.	Permanent disability	2,25,000	4,60,800	Enhanced



2.	Pain and suffering	15,000	15,000	Confirmed
3.	Medical expenses	2,32,866	2,32,866	Confirmed
4.	Loss of income	10,000	10,000	Confirmed
5.	Extra nourishment and transportation	20,000	20,000	Confirmed
6.	Attendant charges	-	20,000	Granted
	Total	5,02,866 rounded off to 5,03,000	7,58,666 rounded off to 7,60,000	Enhanced by Rs.2,57,000/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.5,03,000/- is hereby enhanced to Rs.7,60,000/-. The respondent/Transport Corporation is directed to deposit the award amount granted by the Tribunal i.e., Rs.5,03,000/- together with interest at the rate of 9% per annum from the date of petition till the date of deposit and deposit the enhanced award amount now determined by this Court i.e., Rs.2,57,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant is permitted to withdraw the award amount along with interest and costs now determined by this Court, less the amount if any, already withdrawn. No costs.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Principal District Judge
Motor Accident Claims Tribunal
Salem.

WEB COPY

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

+1cc to Mr.D.Raghu, Advocate SR.No.68774
+1cc to Mr.Zeenath Begum, Advocate SR.No.68610

C.M.A.No.3151 of 2011

VG II (CO)
GN(08/02/2022)