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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2021

CORAM:

THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.2483 of 2015

Banu

... Appellant/Petitioner

Versus

The Metropolitan Transport Corporation Limited,
Represented by its Managing Director,
Pallavan Salai,
Chennai - 600 002.

... Respondent/Respondent

PRAYER:-

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 11.11.2013 and made in M.A.C.T.O.P.No.4085 of 2012 on the file of the Motor Accident Claims Tribunal (In the Court of III Small Causes), Chennai.

For Appellant : Mr.F.Terry Chella Raja

For Respondent : Mr.K.Moorthy

JUDGMENT

(Heard Video Conference)

This appeal has been filed by the claimant seeking enhancement of compensation under the impugned award dated 11.11.2013 passed by the Motor Accident Claims Tribunal, Additional District Judge, III Judge Small Causes Court, Chennai in MACTOP No.4085 of 2012.

2. The appellant/claimant unsatisfied with the quantum of compensation awarded by the Tribunal under the impugned award has preferred this appeal seeking for enhancement.



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3. The details of the compensation awarded by the Tribunal under the impugned award are as follows :

Heads	Amount awarded by the Tribunal (Rs.)
Loss of income	60000
Transport to hospital	20000
Extra nourishment	25000
Damage to clothing	3000
Medical expenses	425000
Future medical expenses	75000
Attender charges	15000
Loss of amenities	25000
Pain and sufferings	75000
Loss of earning power	450000
Total	1173000

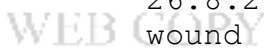
4. Heard Mr.F.Terry Chella Raja, learned counsel for the appellant/claimant and Mr.K.Moorthy, learned counsel for the respondent/Transport Corporation.

5. This Court has perused and examined the impugned award before the Tribunal.

6. The appellant/claimant was aged 34 years and was a Tailor at the time of the accident. The age and avocation of the appellant/claimant has not been disputed by the respondent before the Tribunal. The accident happened on 08.08.2012.

7. The appellant/claimant has sustained the following injuries as a result of an accident :

- a) Chest injury
- b) Fracture left clavicle
- c) Fracture 1st and 2nd ribs left side
- d) Fracture of 1st - 9th ribs right side and bilateral hemopneumothorax
- e) Fracture of left superior and inferior public rami



She was hospitalised between the period 8.8.2012 to 26.8.2012 at Parvathy hospital. During her period of treatment, wound wash was given and pelvic external fixation application was done on her on 8.8.2012. Bilateral ICD was also applied. Wound debridement and VAC application was also done on 11.08.2012 and Open reduction and internal fixation with plate osteosynthesis at left clavicle was also done on her on 14.08.2012. Split skin grafting at right gluteal region was also done on her on 16.08.2012 and external fixation at the pelvic region was removed on 20.08.2012.

9. The Tribunal has fixed the notional monthly income of the appellant/claimant at Rs.5,000/-. This Court is of the considered view that if the Tribunal has given due consideration to the year of the accident and the avocation of the appellant/claimant, it ought to have fixed the notional monthly income at a higher sum. This Court after giving due consideration to the avocation and the year of the accident fixes the notional monthly income of the appellant/claimant at Rs.8,000/- instead of 5,000/- fixed by the Tribunal.

11. Though the Tribunal assessed the whole body disability of the appellant/claimant at 50% and calculated the loss of earning power at the same percentage, whereas due to a typographical error, the same was reflected under the impugned award as 30% before the Tribunal. Accordingly, this Court



confirms the whole body disability of the appellant/claimant at 50%, as assessed by the Tribunal.

12. Accordingly, the loss of earning power of the appellant/claimant is enhanced to Rs.10,08,000/- (Rs.8,000/- + 40% = Rs.11,200/- x 12 x 15 x 50%) by this Court instead of Rs.4,50,000/- as fixed by this Tribunal.

13. With regard to the quantum of compensation awarded by the Tribunal under various other heads namely loss of income, transportation, extra nourishment, damage to clothing, medical expenses, future medical expenses, attender charges, loss of amenities and pain and suffering are concerned, the same is a just compensation and does not call for any interference by this Court.

14. Excepting for enhancing the compensation towards loss of earning power from Rs.4,50,000/- to Rs.10,08,000/- the compensation, awarded by the Tribunal under other various heads are confirmed by this Court.

15. For the foregoing reasons, the award of the Tribunal is hereby enhanced in the following manner :

Heads	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
Loss of income	60000	60000
Transport to hospital	20000	20000
Extra nourishment	25000	25000
Damage to clothing	3000	3000
Medical expenses	425000	425000
Future medical expenses	75000	75000
Attender charges	15000	15000
Loss of amenities	25000	25000
Pain and sufferings	75000	75000
Loss of earning power * Rs.5,000/- x 12 x 15 x 50% # Rs.8,000/- + 40% = Rs.11,200/- x 12 x 15 x 50%	450000 *	1008000 #
Total	1173000	1731000



16. In the result, the appeal filed by the appellant/claimant, stands partly allowed by enhancing the compensation from Rs.11,73,000/- to Rs.17,31,000/-, as indicated above. No costs.

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17. The respondent/Transport Corporation is directed to deposit the entire award amount as assessed by this Court together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of M.A.C.T.O.P.No.4085 of 2012 on the file of the Motor Accident Claims Tribunal (III Court of Small Causes), Chennai. within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellant/claimant through RTGS, within a period of two weeks thereafter. Necessary Court fee, if any has to be paid by the appellant/claimant before receiving the copy of this Judgment.

Sd/-

Assistant Registrar(T & P)

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Sub Assistant Registrar

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To

1. The Judge,
III Court of Small Causes,
Motor Accident Claims Tribunal,
Chennai.
2. The Section Officer,
V.R. Section,
High Court of Madras,
Chennai - 104.

+1cc to M/s.M.Malar, Advocate, S.R.No.33606
+1cc to Mr.K.Moorthy, Advocate, S.R.No.33565

C.M.A.NO.2483 OF 2015

SJ(CO)
PBS/09/11/2021