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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2021

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.M.A.No.1164 of 2017

Elizabeth

...Appellant/Petitioner

Vs

1.The Managing Director,
State Transport Corporation Ltd.,
(Villupuram Division),
Kancheepuram.

2.V.Krishnamoorthy

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 16.04.2012 made in M.C.O.P.No.3248 of 2008 on the file of the Motor Accident Claims Tribunal, V Small Causes Judge, Chennai.

For Appellant : Mr.S.Sundaresan

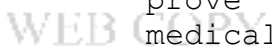
For Respondents : Mr.C.S.K.Sathish for R1
R2-Not Ready Notice

J U D G M E N T

Heard the learned counsel for the appellant and the learned counsel for the first respondent.

2.The appeal is filed by the claimant for enhancement of compensation, being not satisfied with the compensation awarded by the Tribunal.

3.The case of the claimant is that while she was standing on the eastern side of the ECR road along with her child, the Transport Corporation bus coming from northern direction mowed down her. She was taken to Malar hospital for treatment and admitted in the hospital. Took treatment as inpatient for a period of 32 days. Thereafter, she was shifted to Sri Sankara hospital and continued her treatment for another 31 days. Due

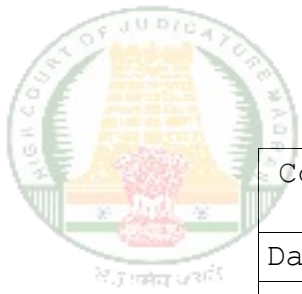


4. Before the Tribunal, the claimant has filed documents to prove her income as well as the disability. Based on the medical evidence given by the doctor, the Tribunal has accepted that there is 100% loss of earning capacity to the claimant and further 30% physical disability. Taking note of her age and salary certificate, the Tribunal fixed her income as Rs.2000/- per month, applied the multiplier and has awarded a sum of Rs.6,27,500/-.

6. Learned counsel appearing for the Transport Corporation submitted that the Tribunal has accepted the medical evidence and the salary certificate produced by the claimant. The injury has not caused 100% impairment to earn. However, the Tribunal has fixed 100% disability to earn and had awarded the compensation fairly.

7. Considered the medical records and the submissions made by the learned counsels. It is now well settled by catena of judgments that while fixing the loss of income, the future prospects of the claimant should also be taken into consideration and fixed based on their age and nature of avocation. In this case also, though the claimant has fairly sought that she was earning Rs.2000/- per month at that point of time and produced salary certificate her future prospects to earn more cannot be ruled out and from the medical record, it is clear that she is totally crippled and not in a position to make her own livelihood. So considering the guidelines of the Supreme Court given in Pranay Sethy's case and taking note of the fact that she was 23 years old at the time of accident, the income of the claimant is notionally fixed at Rs.2,800/- inclusive of future prospects and the loss of earning is computed as Rs.6,04,800/- (2800X12X18X100%) Accordingly, the award of the Tribunal is enhanced as below:

<https://hcservices.ecourts.gov.in/hcservices/>



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Compensation under Various Heads	Award passed by this Court
Damage to the property	Rs. 1,000/-
Attender charges	Rs. 40,000/-
Transport	Rs. 3,660/-
Medical Expnses	Rs. 5,000/-
Medical Expenditure (Ex.P3)	Rs. 86,500/-
Pain and suffering	Rs. 60,000/-
Total	Rs. 8,06,960/-

8. Accordingly, the Civil Miscellaneous Appeal is partly allowed by enhancing the compensation from Rs.6,27,500/- to Rs.8,06,960/- with 7.5% interest from the date of numbering the petition i.e., 24.09.2008 till the date of deposit. The Transport Corporation is directed to deposit the money within a period of eight weeks from the date of receipt of a copy of this judgment. In case of any default in depositing the money after eight weeks from the date of receipt of copy of the judgment, the interest will be 12% thereon. On such deposit, the claimant is permitted to withdraw the money on appropriate application. No costs.

Sd/-
Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

vri

To
The V Judge,
Motor Accidents Claims Tribunal
Court of Small Causes,
Chennai.

Copy to:
The Section Officer,
V.R.Section, High Court, Chennai.

+1cc to Mr.S.Sudharsan, Advocate, S.R.No.7118

CMA NO.1164 of 2017

SRA(CO)
CB(07/09/2021)