



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.01.2021

CORAM

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD)No.539 of 2010

Carunga Sukila

... Appellant /Claimant

Vs.

1.Ramachandran

2.E.Vino Jayanth

3.National Insurance Company Ltd.,
Branch Office,
Angu Vilas Building,
P.B.No.1122, North Car Street,
Nagercoil.

4.The Managing Director,
Tamil Nadu State Transport Corporation,
(Madurai Division-I) Ltd.,
Bye Pass Road,
Madurai 625 010

... Respondents/Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award passed in M.C.O.P.No.691 of 2005 dated 05.03.2008 on the file of the Motor Accident Claims Tribunal cum Principal Sub Court, Tirunelveli.

For Appellant : Mr.V.Kannan

For R1 : Dismissed vide Court

Order, dated 18.02.2012

For Respondents :Mr.M.R.Sreenivasan
(for R2)

Ms.P.Malini (for R3)

JUDGMENT

The claimant, in MCOP. No.691 of 2005 on the file of the Motor Accident Claims Tribunal (Principal Subordinate Court) Tirunelveli, has preferred this appeal seeking enhancement of compensation.

2.The case of the claimant is that on 20.09.2003 at 2.30 pm., she was travelling in a bus owned by the Tamil Nadu Transport Corporation/ the fourth respondent herein, from Madurai to Tirunelveli. At the time, the driver of the lorry bearing Registration No.KS-07-L-3443, which was coming from opposite direction, came in a rash and negligent manner and rammed the bus. She sustained grievous injuries and she was immediately, admitted as inpatient in Tirunelveli Medical College Hospital. She further states that the driver of the lorry was responsible for the accident



and hence, the second respondent/owner as well as the insurer /the third respondent, are jointly liable to pay compensation.

3. The claim petition was opposed by the second respondent-insurance company stating that the accident occurred due to the negligence of the driver of the bus. The age, occupation and income of the claimant was disputed by the second respondent in the counter. The third respondent filed a counter statement disputing the manner of the accident and the entitlement of the claim of compensation. The fourth respondent also filed counter disputing the liability to pay compensation.

4. Before the Tribunal, the parties adduced oral and documentary evidence. The finding on negligence was not questioned by the respondents, hence, it need not be dealt with in this appeal.

5. With regard to quantum, the claimant would state that she was aged about 25 years at the time of accident and she was working as stenographer in Kookkal Public School, Kodaikanal and she was paid Rs.1,800/- per month. She would further state that in the accident her left foot got crushed and she had taken treatment in the Hospital as inpatient from 20.09.2003 to 29.09.2003; from 15.10.2003 to 05.11.2003; and from 07.01.2006 to 18.01.2006. P.W.2 Dr.Thiraviam after examining the claimant and perusing the medical records gave a disability certificate stating that she suffered 52% permanent disability. Ex.P.11 is the disability certificate. Considering the age and based on the evidence of P.W.1, the tribunal has fixed her monthly salary at Rs.1,500/- and by applying multiplier '16' awarded Rs.1,44,000/- for permanent disability of 50% and loss of income.

6. It is the contention of the learned counsel for the appellant that the claimant is entitled for future prospects and the said contention is not seriously disputed by the learned counsel appearing for the third respondent. Hence, by adding 40% for future prospects, the income of the claimant is arrived at Rs.2,100/-. As per the decision of the **Sarla Verma v. Delhi Transport Corporation**, reported in **2009(2) TN MAC 1 (SC)** proper multiplier would be '17' and hence, this Court awards Rs.2,14,200/- towards loss of income (2100X12X17X50/100).

7. The Tribunal based on P.W.10 awarded Rs.1,32,000/-towards medical expenses; Rs.12,000/- for loss of income during the treatment period; Rs.15,000/- for pain and suffering; Rs.5,000/- for extra nourishment; Rs.5,000/- towards transportation and Rs.50,000/- for loss of marriage prospectus. In the considered view of this Court the award in respect of other heads are reasonable and hence they are confirmed. The award of the tribunal is modified as under:-



S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	For permanent disability and loss of income	1,44,000	2,14,200	enhanced
2.	For loss of income during treatment period	12,000	12,000	confirmed
3.	For medical expenses	1,32,000	1,32,000	confirmed
4.	For pain and suffering	15,000	15,000	confirmed
5.	For extra nourishment	5,000	5,000	Confirmed
6.	For transportation	5,000	5,000	Confirmed
7.	For loss of marriage prospectus	50,000	50,000	confirmed
	Total	Rs.3,63,000	Rs.4,33,200/-	By enhancing a sum of Rs.70,200/-

8. In the result, this Civil Miscellaneous Appeal is partly allowed enhancing the amount from Rs.3,63,000/- to **Rs.4,33,200/-**. The claimant is entitled to a sum of **Rs.4,33,200/-** as compensation along with interest @ 7.5% per annum from the date of petition till date of realization with proportionate costs.

9. The third respondent shall deposit the modified award amount with accrued interests and costs, within a period of eight weeks from the date of receipt of a copy of this judgment, less the amount already deposited, if any. On such deposit, the claimant is permitted to withdraw the entire amount by filing necessary application before the Tribunal. No costs.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



To

1.The Motor Accident Claims Tribunal,
Principal Sub Court, Thanjavur.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai(2 copies)

+1 CC to M/s.M.R.SREENIVASAN, Advocate SR-1785[F] dated 22/01/2021

+1 CC to M/s.P.MALINI, Advocate (SR-1798[F] dated 22/01/2021)

C.M.A(MD)No.539 of 2010
21.01.2021

SGS (CO)

TR(21.05.2021) 4P 6C