



WEB COPY



C.M.A.No.2786 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2022

CORAM

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

CMA.No.2786 of 2014

S. Thirupurasundari @ Vanaja .. Appellant
Vs.

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan House, Pallavan Salai,
Chennai – 2 .. Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988 against the Judgment and Decree dated 21.01.2011 made in M.C.O.P.No.147 of 2001 on the file of the Motor Accidents Claims Tribunal, II Judge of Small Causes Court, Chennai.

For Appellant : Mr.K.R.Ponnusamy
for M/s.Anand and Suryas
For Respondent : Mr.S.Sivakumar

J U D G M E N T

This appeal has been filed by the claimant seeking enhancement of compensation under the impugned award dated 21.01.2011 passed by the Motor Accident Claims Tribunal/ II Judge of Small Causes Court, Chennai. in M.C.O.P.No.147 of 2001.



C.M.A.No.2786 of 2014

WEB COPY

2. The case of the claimant / appellant is that on 17.04.2000 at 9.00 hours, while the appellant and another who were occupants in a tricycle, proceeding from Koyambedu to Ambattur, from east to west direction, a MTC Bus bearing Regn.No.TN-01-N-1297 was coming on the same road and in the same direction driven by the driver of the Bus in rash and negligent manner, hit the appellant from behind due to which they were thrown out of the vehicle and also sustained grievous and multiple injuries all over the body. Claiming that the appellant was a fruit vendor and earning about Rs.100/- per day and the rider of the bus is solely responsible for the accident, the appellant / claimant has filed a claim petition claiming a sum of Rs.3,00,000/-.

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

4. The Motor Accidents Claim Tribunal, under the impugned award, has awarded a compensation of Rs.81,000/- together with interest and costs to the Appellant/claimant which is detailed hereunder:



C.M.A.No.2786 of 2014

WEB COPY

<i>Heads</i>	<i>Award Amount (Rs.)</i>
Permanent Disability	60,000/-
Loss of earning during treatment	6,000/-
Transport to Hospital	1,000/-
Extra Nourishment	2,000/-
Damage to cloth and articles	1,000/-
Medical expenses	1,000/-
Pain and sufferings	10,000/-
Total	81,000/-

5. The Appellant/claimant has met with an accident on 17.04.2000 and sustained head injuries viz (Post tramatic) intra ventricular haemorrhage and multiple injuries all over the body, as a result of an accident caused by a vehicle owned by the respondent. She preferred a claim before the Motor Accidents Claims Tribunal seeking compensation for the injuries sustained by her. The Motor Accident Claims Tribunal had directed the respondent to pay the Appellant/claimant, the aforesaid



C.M.A.No.2786 of 2014

compensation.

WEB COPY

6. Before the Tribunal, the Appellant/claimant has filed nine documents which were marked as Ex.P1 to Ex.P9. On the side of the respondent, the driver of the bus, Mr.S.Kothandaraman was examined as witness and marked as RW1. However, no document was filed as seen from the impugned award.

7. The learned counsel appearing on behalf of the appellant mainly contended that the compensation awarded by the Motor Accident Claims Tribunal is inadequate and not in commensuration with the gravity of the injuries suffered by the claimant. It is contended that the claimant suffered grievous injuries and the PW4/Doctor assessed the disability at 40%. The claimant was a fruit vendor and aged about 46 years at the time of accident and after the accident, she was not in a position to perform her work as she was doing before. Therefore, the compensation granted by the Tribunal is to be enhanced.

8. The accident occurred on 17.04.2000 at 09.00 hours, at MTH Road, Near Ambattur I.T. Chengai East District from east to west. Due to



C.M.A.No.2786 of 2014

the accident, the claimant sustained grievous injuries. Thereafter, the claim petition was filed and the Tribunal adjudicated the issues with reference to the documents and evidences produced by the respective parties. As far as the negligence is concerned, the driver of the MTC Bus bearing Regn.No.TN-01-N-1297 had driven the vehicle in a rash and negligent manner and caused the accident.

9. With regard to the quantum of compensation, the Tribunal has awarded a total compensation of Rs.81,000/-. In this regard, it is contended that with regard to the pain and suffering, the quantum awarded by the Tribunal is very meagre. This apart, she sustained grievous injuries. Further, the disability compensation was granted by fixing a sum of Rs.2,000/- for one percentage and the same is to be enhanced.

10. The learned counsel appearing on behalf of the respondent refuted the contention raised by the appellant by stating that the respondent is not responsible for the accident. Therefore, the Tribunal has awarded a reasonable compensation and there is no error as such. Thus, the award given by the Tribunal is to be confirmed and the appeal is to be dismissed.



C.M.A.No.2786 of 2014

11. This Court is of the considered opinion that the appellant/claimant was aged about 46 years at the time of the accident. The doctor assessed the disability at 40%. However, the Tribunal has reduced the same and has assessed the disability at 30%, after considering the multiple injuries sustained by the appellant. Due to the accident, she was unable to perform her routine duties in a normal manner. She had taken treatment at Government General Hospital, Chennai, as seen from the Ex.P7 disability certificate. The appellant/claimant being a fruit vendor, undoubtedly the injuries would have caused the disability, loss of income and she would be incapacitated to some extent from performing her normal duties. This apart, the accident occurred in the year 2000. Thus, fixing a sum of Rs.2,000/- for 1% disability is inadequate. Therefore, this Court is inclined to enhance the disability compensation to Rs.80,000/-. Insofar as the compensation awarded by the Tribunal towards "Transport to Hospital" during the period of treatment at Rs.1,000/- is concerned, the same is low in the considered view of this Court. Hence, the compensation awarded under the head "Transport to Hospital" is enhanced to Rs.2,000/- instead of Rs.1,000/-. Insofar as the compensations awarded by the Tribunal towards 'Extra Nourishment', 'medical expenses' and 'Pain and sufferings' are concerned, the same are low and they are enhanced to Rs.5000/-, Rs.5000/-



C.M.A.No.2786 of 2014

and Rs.12000/- respectively.

WEB COPY

12. For the foregoing reasons, the compensation awarded by the Tribunal under the impugned award is enhanced from Rs.81,000/- to Rs.1,11,000/- in the following manner:

<i>Heads</i>	<i>Amount awarded by the Tribunal</i>	<i>Award Amount (Rs.)</i>
Permanent Disability	60,000/-	80,000/-
Loss of Earning during treatment	6,000/-	6,000/-
Transport to Hospital	1,000/-	2,000/-
Extra Nourishment	2,000/-	5,000/-
Damages to clothes and articles	1,000/-	1,000/-
Medical Expenses	1,000/-	5000/-
Pain and Sufferings	10,000/-	12,000/-
Total	81,000/-	111000/-

13. Conclusion:

11. In the result, this appeal is allowed. However, the rate of interest fixed by the Tribunal at the rate of 7.5% is confirmed. The respondent / Transport Corporation is directed to deposit the modified amount i.e, Rs.1,11,000/- along with interest, after deducting the amount



C.M.A.No.2786 of 2014

already deposited, if any, to the credit of MCOP.No.147 of 2001 within a

WEB COPY

A.A.NAKKIRAN, J.

gv

period of six 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 along with accrued interest as per the order of this Court to the Appellant/claimant through RTGS within a period of two weeks thereafter.

No costs.

19.12.2022

Index : Yes/No

Internet: Yes/No

Speaking Order/Non-Speaking Order

gv

To

1.The Motor Accident Claims Tribunal,
II Judge of Small Causes Court, Chennai.

2.The Section Officer,
V.R Section,



High Court, Madras.

WEB COPY



C.M.A.No.2786 of 2014

CMA.No.2786 of 2014