



C.M.A.No.883 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2023

CORAM:

The HONOURABLE MRS.JUSTICE N.MALA

C.M.A.No.883 of 2023

Shanthi

... Appellant

VS.

The Managing Director,
Metropolitan Transport Corporation,
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 08.11.2016 made in M.C.O.P.No.8092 of 2013 on the file of the Motor Accident Claims Tribunal, (IV Small Causes Court), Chennai.

For Appellant : M/s.K.Varadhakamaraj

For R1 : Mr.M.Muralivinodh



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JUDGMENT

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The Civil Miscellaneous Appeal is filed by the appellant/claimant challenging the Judgment and decree dated 08.11.2016 passed in M.C.O.P.No. 8092 of 2013 on the file of the Motor Accident Claims Tribunal, (IV Small Causes Court), Chennai.

2. The appeal is filed seeking enhancement of compensation. The parties shall be referred to as per their ranking in the Tribunal.

3. According to the claimant, the driver of the Transport Corporation Bus drove the bus in a rash and negligent manner and hit the auto, in which he was travelling from behind. Due to the collision, the appellant/claimant suffered grievous injuries and therefore she filed the claim petition claiming Rs.6,00,000/- as compensation.

4 The respondent contested the claim petition by filing a detail counter generally denying all the contentions and allegations in the claim petition. The respondent further specifically denied the negligence and quantum.



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5. Before the Claims Tribunal, the claimant examined herself as P.W.1 and the Doctor was examined as P.W.2. The claimant filed documents Exs.P.1 to P.8 in support of her case. On the side of the respondent, no oral and documentary evidence was filed.

6. The Claims Tribunal, on the basis of both oral and documentary evidence on record held that the accident occurred due to the negligence of the driver of the Transport Corporation. The Tribunal awarded a sum of Rs.1,31,200/- as compensation together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of payment, to the appellant/claimant.

7. Not satisfied with the quantum of compensation awarded by the Tribunal, the claimant has preferred the above appeal.

8. The learned counsel for the claimant submitted that the Tribunal ought to have applied the multiplier method as the claimant was not able to work as before because of partial permanent disability sustained by her in the accident. Moreover, as the claimant was a flower vendor, the amputation of the right ring finger resulted in total loss of



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earning power. The learned counsel further submitted that in the absence of any contra evidence, the Tribunal ought to have taken the monthly income at Rs.13,000/-. The learned counsel for the appellant further submitted that the award of the Tribunal under the various heads was also very meagre and the same deserved to be enhanced.

9. On the other hand, the learned counsel for the respondent submitted that the award passed by the Tribunal was just, fair and reasonable and did not call for any interference in this appeal.

10. I have heard both the learned counsels and I have also perused the materials available on record .

11. The finding of the Tribunal as regarding negligence is not disputed. The only point to be addressed in the appeal is whether the claimant is entitled to enhanced compensation.

12. It is not in dispute that the claimant was a flower vendor and sustained the following grievous injuries in the accident : -



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“(i) total crush amputation TPX level right ring finger

(ii) MPX nibbled and little finger.”

The doctor opined that the disability was partial permanent disability and assessed the same at 30%. The Tribunal reduced the percentage of partial permanent disability to 25% on the ground that the assessment of disability was not based on whole body.

13. The learned counsel for the claimant contended that the Tribunal failed to note that due to the injuries, the claimant was not able to work as before and she lost her earning power. It is seen that the claimant lost her ring finger due to the incident. The claimant was a flower vendor and hence, I am of the view that the Tribunal ought to have assessed the functional disability, which it failed to .

14. The claimant was a flower vendor and so the amputation of the ring finger would, in my view, affect her earning capacity. Hence, I am of the opinion that the contention of the claimant's counsel that the multiplier method should be adopted is justified. In respect of other heads, the award of the Tribunal in my view is fair and reasonable and hence the same are confirmed.



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15. In the light of the above discussions, the award of the

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Sl. No	Description	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted or reduced
1	Loss of Income	75,000	3,36,000/- (Rs.8,000 x 25/100 x12 x14)	Enhanced
2	Pain and sufferings	25,000	25,500	Confirmed
3	Extra nourishment	2,500	2,500	Confirmed
4	Transport to Hospital	2,500	2,500	Confirmed
5	Damages to clothes	500	500	Confirmed
6	Attender charges	200	200	Confirmed
7	Medical expenses	5,000	5,000	Confirmed
8	Future Medical Expenses	2,500	2,500	Confirmed
9	Loss of Income	13,000	16,000	Enhanced
Total		Rs.1,31,200	Rs.3,95,200	Enhanced by Rs.2,64,000/-

16. Thus, the claimant would be entitled to an enhanced amount of Rs.2,64,000/- together with interest at the rate of 7.5% per annum.

17. It is submitted by the learned counsel for the claimant that



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the appeal was filed with a delay of 317 days and this Hon'ble Court at the time of condoning the delay ordered that the claimant will not be entitled to interest for the delay period of 317 days. It is therefore made clear that the claimant shall forfeit interest on the enhanced amount of compensation for the delay period of 317 days.

18. It is submitted by the learned counsel for the respondent that the entire award amount has already been deposited before the Tribunal.

19. In the result,

- (i) The Civil Miscellaneous Appeal is partly allowed.
- ii) The compensation awarded by the Tribunal is enhanced from Rs.1,31,200/- to Rs.3,95,200 (Rs.1,31,200 – Rs.3,95,200/- = Rs.2,64,000) which shall carry interest at the rate of 7.5% per annum.
- (iii) The claimant is directed to pay the Court Fee for the enhanced compensation, if any, and the Registry is directed to draft the decree only after the payment of Court fee.
- (iv) The respondent is directed to deposit the enhanced



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award amount along with interest (excluding the period of 316 days) and costs before the Tribunal within a period of eight weeks from the date of receipt of a copy of this order. The claimant shall thereafter be entitled to withdraw the entire amount. No costs.

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Index : Yes/No
Neutral Citation : Yes/No
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To:

The Motor Accidents Claims Tribunal,
(IV Small Causes Court), Chennai.



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N.MALA,J.

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