



C.M.A.No.943 of 2023

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2023

CORAM:

THE HONOURABLE Mrs.JUSTICE N.MALA

C.M.A.No.943 of 2023

Chamundeswari

...Appellant

Vs.

Metropolitan Transport Corporation,
Rep. by The Managing Director,
Pallavan Salai, Chennai – 2.

...Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment dated 07.08.2018 made in MCOP.No.4302 of 2015 on the file of Motor Accident Claims Tribunal, (III Small Causes Court), Chennai.

For Appellant : Mr.Varadha Kamaraj

For Respondent : Mr.Anton Dhanasekaran



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JUDGMENT

The appeal is filed by the claimant challenging the award dated 07.08.2018 made in MCOP.No.4302 of 2015 on the file of the Motor Accident Claims Tribunal, (III Small Causes Court), Chennai.

2. The appeal is filed by the claimant for enhancement of compensation. The claim petition was filed by the claimant seeking Rs.8,00,000/- as compensation for the injuries sustained by her in a motor accident which occurred on 05.09.2014.

3. According to the claimant, the accident occurred when the transport corporation bus driven by its driver in a rash and negligent manner hit her while she was walking on the road. Due to the accident she sustained grievous injuries. According to the claimant, she was self-employed and was earning a monthly income of Rs.15,000/-.



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4. The Transport Corporation contested the claim petition by filing counter wherein all the contentions raised in the claim petition were denied including negligence and the quantum of compensation claimed.

5. Before the Claims Tribunal the claimant examined herself as PW1 and the Doctor as PW2 and marked Exs.P1 to P8 in support of her case. The respondent examined RW1, the driver of the transport corporation bus.

6. The Tribunal on a conspectus of the entire evidence on record allowed the claim petition by awarding compensation of Rs.64,150/- along with 7.5% interest. Not satisfied with the award passed by the Claims Tribunal, the claimant has filed the above appeal.

7. The learned counsel for the claimant submitted that Tribunal erred in awarding Rs.3,000/- towards percentage of disability. The learned counsel relied on the judgment reported in **2020 (1) TN MAC 617 [M. Chinnathambi Vs. S.Deepa and another]**, and prayed that Rs.4,000/- may



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be fixed for percentage of disability as the accident occurred in 2014 The learned counsel further submitted that the compensation awarded towards the other heads like loss of income, pain and suffering and attender charges were very much on the lower side and the same needed to be modified.

8. The learned counsel for the respondent on the other hand contended that the award passed was fair and reasonable and did not call for interference and further submitted that the Tribunal erred in awarding Rs.7,500/- towards medical expenses and future medical expenses in the absence of evidence.

9. I have heard both the counsel and perused the materials available on record.

10. The Tribunal assessed the disability at 10% and awarded a sum of Rs.3,000/- per percentage of disability. In my view the learned counsel for the appellant is justified in his submission that Rs.4,000/- should be awarded towards each percentage of disability. This Hon'ble Court has



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in the judgment in *M. Chinnathambi Vs. S.Deepa and another* reported in

2020 (1) TN MAC 617 held that for accidents that took place in the year

2014 a sum of Rs.4,000/- could be granted for each percentage of disability.

Following the said judgment the loss towards 10% disability is fixed at

Rs.40,000/-.

11. The award towards pain and suffering in my view is meagre.

Considering the nature of injuries and also the age of the claimant, a sum of Rs.15,000/- is awarded towards pain and sufferings. It is seen that the claimant suffered fracture of scapula in the hand and she would have been out of work for atleast 2 months and therefore a sum of Rs.13,000/- is awarded towards loss of income. In respect of other heads, the amounts awarded by the Tribunal are confirmed.

12. As far as the objection of the learned counsel for the respondent that the Tribunal erred in awarding Rs.7,500/- towards medical expenses both past and future is concerned, the same is rejected as no appeal has been filed by the respondent challenging the award.



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13. The award of the Tribunal is therefore modified as follows:-

<i>Sl. No.</i>	<i>Heads</i>	<i>Amount awarded by the Tribunal</i>	<i>Amount awarded in the Appeal</i>
1.	Disability	Rs.30,000/-	Rs.40,000/-
2.	Pain and suffering	Rs.10,000/-	Rs.15,000/-
3.	Extra nourishment	Rs.5,000/-	Rs.5,000/-
4.	Transport to Hospital	Rs.5,000/-	Rs.5,000/-
5.	Damages to clothes	Rs.500/-	Rs.500/-
6.	Attender charges	Rs.400/-	Rs.400/-
7.	Medical expenses	Rs.5,000/-	Rs.5,000/-
8.	Future Medical Expenses	Rs.2,500/-	Rs.2,500/-
9.	Loss of Income	Rs.3,250/-	Rs.13,000/-
10.	Loss of Amenities	Rs.2,500/-	Rs.2,500/-
Total		Rs.64,150/-	Rs.88,900/-

14. The claimant shall be entitled to a sum of Rs.88,900/- as compensation along with 7.5% interest. The learned counsel for the respondent submits that the amount awarded by the Tribunal was already deposited and the same was also withdrawn by the claimant.



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15. In view of the same, there shall be a direction to the respondent to deposit the enhanced amount of Rs.24,750 along with 7.5% interest from the date of petition till date of payment. It is made clear that the claimant shall not be entitled to interest for the delay period of 1049 days, as the delay in filing the appeal was condoned on condition of forfeiture of interest for the delay period of 1049 days.

16. Accordingly, the Civil Miscellaneous Appeal is **partly allowed**. No costs.

21.04.2023

dsa

Index :Yes/No
Internet :Yes/No
Neutral Citation :Yes/No
Speaking order /Non-speaking order

To:-

The III Small Causes Judge,
Motor Accident Claims Tribunal,
Chennai.

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N.MALA, J.

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