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C.M.A.Nos.1718 & 1720 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2023

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.Nos.1718 & 1720 of 2020

Jeyanthi

... Appellant/Petitioner
in C.M.A.No.1718 of 2020

G.Balamurugan

... Appellant/Petitioner
in C.M.A.No.1720 of 2020

Vs

The Managing Director,
TamilNadu State Transport Corporation Limited,
Railway Station New Road,
Kumbakonam

... Respondent/Respondent
(in both the Appeals)

Prayer in C.M.A.No.1718 of 2020: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, as against the Judgment and Decree dated 19.07.2019 made in M.A.C.T.O.P.No.88 of 2017 on the file of the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai.



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Prayer in C.M.A.No.1720 of 2020: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, as against the Judgment and Decree dated 19.07.2019 made in M.A.C.T.O.P.No.7799 of 2016 on the file of the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai.

For Appellants
in both the Appeals ... M/s.A.Subadra

For Respondents
both the Appeals ... Mr.Murali Vinoth

JUDGMENT

Assailing the impugned award passed by the Motor Accident Claims Tribunal Cum IV Court of Small Causes, Chennai in M.C.O.P.No.Nos.7799 of 2016 & 88 of 2017, the present appeals have been filed by the claimants/appellants seeking enhancement of compensation.

2. On 20.01.2016, the claimants were travelling as passengers in a bus bearing Reg.No.TN-68-N-0644 which was proceeding from Chennai to Kumbakonam and the said bus was driven by its driver in a rash and negligent manner and dashed against the lorry bearing Regn. No.TN-23-AD-1926 which



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came in the opposite direction due to which, the claimants suffered grievous injuries. Aggrieved by which, the claimants have filed claim petitions claiming compensation for the injuries sustained by them, wherein, the Tribunal has awarded a sum of Rs.50,800/- to the claimant in M.C.O.P.No.7799 of 2016 and a sum of Rs.48,800/- as compensation to the claimant in M.C.O.P.No.88 of 2017.

3. Before the Tribunal, the claimants examined themselves as P.W.1 and P.W.2 and marked Ex.P.1 to Ex.P.13. No documents were marked on the side of the respondents however, the driver of the bus was examined as R.W.1. After considering all the oral and documentary evidence, the Tribunal had awarded the compensation amount of Rs.50,800/- & Rs.48,800/- to the respective claimants. Aggrieved by the lower quantum of compensation awarded by the Tribunal, the appellants/claimants are before this Court seeking enhancement of compensation.

4. Learned counsel appearing for the claimants submitted that when the



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Tribunal has accepted that the lorry was driven in a rash and negligent manner which was the cause for the accident and when the doctor, P.W.3, had clearly deposed about the injuries suffered by the claimants, the compensation awarded by the Tribunal is grossly inadequate. When P.W.3 has clearly deposed about the disability suffered by the claimants, the amount of Rs.3,000/- per percentage of disability awarded by the Tribunal is wholly inadequate. Further, the amount awarded under the other heads is also minimal. Hence he prays for enhancement of the compensation awarded by the Tribunal under various heads.

5. Per contra, learned counsel appearing for the respondent corporation submitted that the amount of Rs.3000/- awarded per percentage of disability is reasonable and so also the compensation awarded under the other heads, which does not require any enhancement. Accordingly, he prays for dismissal of the appeals.

6. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials



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available on record.

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7. The factum of the accident is not disputed by the parties and so also the liability. Therefore, this Court is not entering into the said aspect. The only grievance of the claimant is with regard to the quantum of compensation awarded. In this regard, the crucial evidence is that of P.W.3, the doctor, who has deposed that the disability suffered by the respective claimants. The Tribunal, by adopting Rs.3000/- per percentage of disability has awarded a sum of Rs.30,000/- to the respective claimants by fixing the disability at 10%. In this regard, this Court had perused the disability certificates issued by the P.W.3 viz., Ex.P.10 & Ex.P.12 and the same reveals that the claimants in M.C.O.P.No.7799 of 2016 and M.C.O.P.No.88 of 2017 have suffered disability of 35%. However, in view of the nature of injuries suffered by the claimants, this Court is of the view that fixing disability at 20% in respect of the claimant in M.C.O.P.No.7799 of 2016 and 15% in respect of the claimant in M.C.O.P.No.88 of 2017 would be just and reasonable. It is further seen from the disability certificates issued by P.W.3 that the Tribunal, had erroneously adopted a sum of Rs.3,000/- per percentage of disability and awarded a sum of



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Rs.30,000/-. However, as per the existing law at the relevant point of time, the Tribunal ought to have fixed a sum of Rs.5,000/- per percentage of disability. Hence, this Court is inclined to fix a sum of Rs.5,000/- per percentage of disability. Therefore, the amount under the head of disability stands enhanced to a sum of Rs.1,00,000/- ($20 \times \text{Rs.5,000/-} = \text{Rs.1,00,000/-}$) in M.C.O.P.No.7799 of 2016. Insofar as M.C.O.P.No.88 of 2017, the amount towards disability stands enhanced to a sum of Rs.75,000/- ($15 \times \text{Rs.5000/-} = \text{Rs.75,000/-}$).

8. Further this Court finds that the compensation awarded under various heads are just and reasonable and does not require any interference. However, insofar as the compensation awarded towards pain and suffering is concerned, a sum of Rs.25,000/- would be just and reasonable and to that extent the compensation awarded under the said head is modified.

9. In the above circumstances, the compensation awarded by the Tribunal in M.C.O.P.No.7799 of 2016 under the below mentioned heads are



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modified as under :-

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Head of Compensation	Amount awarded by Tribunal	Amount awarded by this Court
Disability	Rs.30,000/-	20% x Rs.5000/- Rs = 1,00,000/-
Loss of Income	Rs.8,000/-	Rs.8,000/-
Pain and suffering	Rs.5,000/-	Rs.25,000/-
Transportation to Hospital	Rs.2,000/-	Rs.2,000/-
Additional Nourishment	Rs.3,000/-	Rs.3,000/-
Damages to clothes	Rs.1,000/-	Rs.1,000/-
Attender Charges	Rs.1,800/-	Rs.1,800/-
TOTAL	Rs.50,800/-	Rs.1,40,800/-

10. Insofar as M.C.O.P.No.88 of 2017 is concerned, the compensation awarded by the Tribunal under the below mentioned heads are modified as under :-

Head of Compensation	Amount awarded by Tribunal	Amount awarded by this Court
Disability	Rs.30,000/-	15% x Rs.5000/- Rs = 75,000/-
Loss of Income	Rs.6,000/-	Rs.6,000/-
Pain and suffering	Rs.5,000/-	Rs.25,000/-
Transportation to	Rs.2,000/-	Rs.2,000/-



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Hospital		
Additional Nourishment	Rs.3,000/-	Rs.3,000/-
Damages to clothes	Rs.1,000/-	Rs.1,000/-
Attender Charges	Rs.1,800/-	Rs.1,800/-
TOTAL	Rs.48,800/-	Rs.1,13,800/-

11. Accordingly, the appeals are partly allowed and the impugned Award of the Tribunal insofar as M.C.O.P.No.7799 of 2016 is modified by enhancing the compensation amount from **Rs.50,800/-** to **Rs.1,40,800/-**. Insofar M.C.O.P.No.88 of 2017, the compensation amount stands enhanced from **Rs.48,800/-** to **Rs.1,13,800/-**. The respondent corporation is directed to deposit the respective amounts to the credit of M.C.O.P.No.7799 of 2016 & M.C.O.P.No.88 of 2017 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellants/claimants are permitted to withdraw the enhanced award amount, along with interest and costs. The appellants/claimants are directed to pay the necessary Court fee for the enhanced compensation amount. The Tribunal below shall disburse the



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enhanced amount upon proof of payment of Court fee is produced by the appellants/claimants. There shall be no order as to costs in the present appeals.

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

NHS

To

- 1.The Motor Accident Claims Tribunal Cum
IV Court of small causes,
Chennai.
- 2.The Section Officer,
V.R. Section,
High Court, Madras.



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M.DHANDAPANI, J

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