



C.M.A.No.1132 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2023

CORAM:

THE HON'BLE Mr.JUSTICE A.A.NAKKIRAN

CMA. No.1132 of 2018

Lekha

... Appellant

..VS..

The Managing Director,
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.
No.3/137, Salamedu,
Vazhuthareddy Post,
Villupuram – 605 401.

... Respondent

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988,
against the judgment and decree dated 06.10.2017 made in
MCOP.No.1017 of 2013 on the file of IV Judge, Motor Accident Claims
Tribunal, (Court of Small Causes), Chennai.

For Appellant : Mr. K.Varadha Kamaraj

For Respondent : Mr.K.J.Sivakumar



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J U D G M E N T

Aggrieved over the quantum of compensation arrived at by the Tribunal at Rs.5,34,000/- along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit, the claimant / appellant is before this Court. Since challenge to the appeal is only on quantum, this Court deals only with the quantum arrived at by the tribunal, confirming the negligence aspect.

2. It is the case of the claimant/appellant that on 23.12.2012 at 04.50 hours, while she was travelling in the car bearing Regn.No.TN-05-B-6941 driven by her and stopped at G.S.T.Salai, Near Santhi Petrol Bunk Signal, in Pazhavanthangal, Chennai, the driver of the respondent bus, rode the bus bearing Regn.No.TN-32-N-2847 in a rash and negligent manner and dashed against the car which is waiting for signal, thereby the claimant has sustained grievous injuries. Claiming that the respondent is liable to pay compensation, claim petition came to be filed



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claiming a sum of Rs.20,00,000/- as compensation. It is the further case of the claimant that she was doing school nurse and earning 6500/- Dirahms per month.

3. The age, avocation and monthly income given by the appellant/claimant were disputed by the respondent in total and contended that the said bus was operated in Town Bus route as route No.3/A from Vellore to Senganatham and from Vellore to Virinjupuram within the Vellore District Jurisdiction but not from Kallakurichi to Chennai as mentioned in the FIR. He further submitted that the driver of the bus is not liable to pay any compensation. Hence, he prays to dismiss the appeal.

4. The Tribunal, based on the oral and documentary evidences, has awarded a sum of Rs.5,34,000/- as total compensation payable by the respondent to the claimant under the following heads:



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Heads	Award Amount (Rs.)
Disability	1,50,000/-
Pain and Suffering	50,000/-
Extra Nourishment	10,000/-
Transport to Hospital	10,000/-
Damages to clothes	1,000/-
Attender Charges	2,400/-
Medical Expenses	2,31,088/-
Future Medical Expenses	50,000/-
Loss of Income	19,500
Loss of Amenities	10,000/-
Total	Rs.5,33,988/-

Rounded off to Rs.5,34,000/-

5. Heard both sides.

6. The learned counsel for the Appellant submitted that the nature of the injuries sustained by the Appellant/claimant has not been disputed by the respondent as seen from the evidence available on record. He further submitted that the appellant has sustained fractures in right



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zygoma and maxilla, femoral head, right acetabulum and nasal bone. The Tribunal has erred in taking the disability at 50%, by taking Rs.3000/- for 1% disability and a sum of Rs.1,50,000/- has been awarded towards 'disability'. The appellant/claimant, aged 38 years at the time of accident and she was a School Nurse in Abudhabi, U.A.E earning a sum of Rs.6,500/- Dirahms per month. The Doctor who assessed the disability of the Appellant has fixed his disability at 70%. However, the Tribunal has reduced the same and has assessed the disability at 50%. The disability compensation awarded by the Tribunal as seen from the impugned award is Rs.1,50,000/- calculated at Rs.3000/- per percentage of disability. The amount awarded under the head of 'Extra Nourishment' is Rs.10,000/- which is also meagre. Due to the grievous injuries, suffered by the appellant, she is in need of more extra nourishment. He further submitted that the appellant was admitted in Parvathy Hospital for 12 days and she had taken assistance of attender for which the Tribunal had awarded Rs.2400/- and the same is too low. Further, it is disputed that the claimant had taken treatment for quite some time and during that time,



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the claimant had incurred attendant and medical expenses. But the Tribunal has not awarded adequate sum towards attender charges. The amount awarded under the head of 'loss of income' is granted only for three months and the amount awarded under the head 'loss of amenities' also appears to be meagre. He further submitted that ample evidence and documents were produced before the Tribunal to prove the age, avocation and income details of the claimant / appellant and hence the award of the Tribunal needs significant enhancement.

7. Per Contra, the learned counsel for the respondent / Transport Corporation submitted that the Tribunal has taken into consideration each and every aspect and has awarded a sum of Rs.5,34,000/- as total compensation, which is nothing but 'just'; the Tribunal has observed the version made in the cross examination of P.W.5 and P.W.6 who are Doctors wherein he categorically stated that they have not filed any worksheet and guide lines and in the absence of the same, the Tribunal cannot take the disability percentages as fixed by PW5 and PW6. The



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disability assessed by the Doctors not assessed to the whole body and hence the amount awarded under the head 'disability' and other heads are supported by reasons of the Tribunal. In fine, he submitted that the well reasoned award of the Tribunal does not require any interference by this Court.

8. However, considering the nature of the injuries sustained by the Appellant/claimant, this Court is inclined to fix the disability of the Appellant/claimant at 70%. Insofar as the assessment of disability compensation at Rs.3000/- per percentage is concerned, the same is a correct assessment since the year of the accident is 2012. However, in view of the modification of the disability from 50% to 70% by this Court, the disability compensation is enhanced to Rs.2,10,000/- by this Court instead of Rs.1,50,000/- assessed by the Tribunal. Similarly, the amounts awarded under the heads of 'Extra Nourishment', 'Attender charges', 'Loss of income' and 'loss of amenities' are also enhanced to Rs.20,000/-, Rs.5000/-, Rs.40,000/-(5 months x Rs.8000/-) and Rs.25,000/-



9. A perusal of the judgment of the Tribunal would go to show that it has taken into consideration the documents, viz, Ex.P.6/Discharge summary; Ex.P7/Medical bills; Ex.P8/Prescription; Ex.P16/X-ray; Ex.P17/Disability certificate issued by PW5, Ex.P20/Disability certificate issued by PW6; and has awarded Rs.50,000/- towards Pain and suffering; Rs.10,000/- towards Transport; Rs.1000/- towards damages to clothes; Rs.2,31,088/- towards medical expenses and Rs.50000/- towards Future medical expenses, which in the opinion of this Court, are based on evidence on record and hence the said sums awarded under these heads are confirmed as such. Thus, the break-up details of the modified compensation are as follows:

Heads	Amount (Rs.)
Disability (70x3000)	2,10,000
Pain and suffering	50,000
Extra Nourishment	20,000
Transport	10,000
Damage to clothes	1,000



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Attender Charges	5,000
Medical Expenses	2,31,088
Future Medical Expenses	50,000
Loss of Income	40,000
Loss of Amenities of life	25,000

Total

Rs.6,42,088/-

10. In the result, the Civil Miscellaneous Appeal filed by the claimant / appellant is allowed by enhancing the total compensation from Rs.5,34,000/- to Rs.6,42,088/-, which is payable with interest at the rate of 7.5% per annum from the date of petition till the date of deposit.

11. The respondent shall deposit the enhanced compensation amount, as awarded by this Court, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the Tribunal is directed to transfer the said sum to the Savings Bank Account of the appellant / claimant, through RTGS, within one week thereafter. No costs.



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A.A.NAKKIRAN., J.

gv

To

1. The IV Judge,
Motor Accident Claims Tribunal,
(Court of Small Causes), Chennai.
2. The Section Officer,
V.R.Section,
Madras High Court,
Chennai-104.

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