



CMA.No.1488 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04. 2023

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CMA.No.1488 of 2019

Shanthi

Appellant

Vs

1. The Managing Director, Pondicherry State Transport Corporation, Pondicherry
2. The Chief Manager, Oriental Insurance Company Limited Chennai
3. The Principal, Aries Polytechnic College Karunguzhi, Kurinjipadi Taluk
4. The Divisional Manager, New India Assurance Company Limited, Pondicherry

Respondents

Prayer:- This Civil Miscellaneous Appeal has been filed, against the judgement and decree, dated, 10.10.2018, made in MCOP.No.172 of 2016, by the II Additional District Judge (MACT) Chidambaram.

For Appellant : Mr.A.Murugan

For Respondents : RR1 and 3-No Appearance
Mr.N.Sampath-R2
Mr.R.Sivakumar-R4

JUDGEMENT

1. This Civil Miscellaneous Appeal has been filed, against the judgement and decree, dated, 10.10.2018, made in MCOP.No.172 of 2016, by the II Additional District Judge (MACT) Chidambaram.
2. The claimant has filed the claim petition before the Tribunal, seeking a



CMA.No.1488 of 2019

compensation of Rs.60,00,000/- on various heads, for the injuries, sustained by her, in a motor road accident, which took place on 14.07.2016. The claim petition was resisted, on various grounds, by the Respondents 2 and 4, by filing separate counters. The Respondents 1 and 3 remained exparte. On the side of the claimant, PW.1 was examined and Ex.P1 to Ex.P18 were marked. Ex.X1 was marked. Finding that the accident had occurred only due to the rash and negligent driving of the driver of the offending bus, belonging to the 1st Respondent and insured with the 2nd Respondent Insurance Company, the Tribunal has awarded a total compensation of Rs.18,07,200/- with interest at 7.5% p.a. from the date of the claim petition till the date of realization, as detailed below:-

S.No	Category	Award Amount (Rs.)
1	Loss of Future Earnings Due To The Disability	907200.00
2	Pain and Suffering	200000.00
3	Loss of Marital Bliss	100000.00
4	Loss of Amenities	100000.00
5	Transportation Expenses	25000.00
6	Extra Nourishment	25000.00
7	Attendants Charges	50000.00
8	Medical Expenses	400000.00
Total Compensation		1807200.00

Aggrieved by the quantum of compensation, this appeal has been filed by the claimant.

3. This Court heard the learned counsel on either side, considered their submissions and also perused the entire materials placed on record.
4. Since there is no quarrel over the negligence aspect and the dispute is only with regard to the quantum of compensation, the finding of the Tribunal with respect to the negligence aspect is confirmed and also, it is not necessary to



narrate the entire facts in detail in respect of the accident.

5. According to the learned counsel for the Appellant, the injured claimant was aged 20 years old at the time of the accident and studying B.E. Final Year and she suffered as many as seven grievous injuries, including fractures on her both legs and crush injuries and hence, considering the nature of injuries, her age and education and medical records, particularly, Ex.X1 disability certificate, issued by the concerned Medical board, the Tribunal ought to have fixed the disability at 51% and accordingly, ought to have awarded more compensation in all the heads.
6. According to the learned counsel for the 2nd Respondent/ Insurance Company, the compensation awarded by the Tribunal is just and proper.
7. The claimant was aged 20 years old at the time of the accident and she was studying B.E. Final Year (Electrical and Electronics Engineering). As per the medical evidence, Ex.X1, disability certificate, the claimant suffered 51% disability. Hence, the disability arrived at by the Tribunal at 21% is not proper and it would be proper to fix it at 50%. After finishing B.E. (Electrical and Electronic Engineering), the claimant would have earned not less than Rs.15,000/- p.m. Thus, the compensation towards loss of earnings due to the disability would come to Rs.16,20,000/- (Rs.15000 x 12 x 18 x 50/100).
8. Considering the nature of injuries, Rs.2,00,000/- towards pain and sufferings, Rs.1,00,000/- towards loss of marital bliss, Rs.1,00,000/- towards loss of amenities, Rs.25,000/- towards transportation expenses, Rs.25000/- towards extra nourishment, Rs.50,000/- towards attendants charges awarded by the



CMA.No.1488 of 2019

Tribunal, are enhanced to Rs.2,50,000/-, Rs.1,50,000/-, Rs.1,50,000/-, Rs.30,000/-, Rs.30,000/- and Rs.60,000/- respectively. The compensation under the head of medical expenses is retained. In all, the claimant is entitled to a total compensation of Rs.26,90,000/- with interest 7.5% p.a. from the date of the claim petition till the date of realisation

9. In the result, this Civil Miscellaneous Appeal is partly allowed. In all, the claimant is entitled to a total compensation of Rs.26,90,000/- (Rupees twenty six lakhs ninety thousand only) with interest 7.5% p.a. from the date of the claim petition till the date of realisation, as detailed below:-

S.No	Category	Award Amount (Rs.)
1	Loss of Future Earnings Due To The Disability	1620000.00
2	Pain and Suffering	250000.00
3	Loss of Marital Bliss	150000.00
4	Loss of Amenities	150000.00
5	Transportation Expenses	30000.00
6	Extra Nourishment	30000.00
7	Attendants Charges	60000.00
8	Medical Expenses	400000.00
Total Compensation		2690000.00

The 2nd Respondent / Insurance Company is directed to deposit the entire award amount with interest at 7.5% p.a. from the date of the claim petition till the date of deposit, after deducting the amount, if any already, deposited, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the claimant is entitled to withdraw the entire compensation amount with interest, by filing proper application. No costs.

24.04. 2023



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CMA.No.1488 of 2019

A.A.NAKKIRAN, J.

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Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Srcm

To

1. The II Additional District Judge (MACT) Chidambaram.
2. The Record Keeper, VR Section, High Court, Madras

CMA.No.1488 of 2019

24.04.2023