



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2023

CORAM:

The HONOURABLE MRS.JUSTICE N.MALA

C.M.A.No.953 of 2021

P.Alamelu

... Appellant

Vs.

The Managing Director,
Metropolitan Transport Corporation Limited,
Pallavan House, Anna Salai,
Chennai-600 002.

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree dated 03.12.2019 made in M.C.O.P.No.7081 of 2016 on the file of the Motor Accident Claims Tribunal/ IV Court of Small Causes Court, Chennai.

For Appellant : Mr.Ramya V Rao

For Respondent : Mr.A.Vinoth Raj

JUDGMENT

This Civil Miscellaneous Appeal is filed by the claimant for enhancement of compensation. The claim petition was filed by the



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claimant claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by her in motor accident which occurred on 16.02.2016.

2. According to the claimant, she was 50 years old at the time of accident and as a vegetable vendor, she was earning a sum of Rs.15,000/- per month. The claimant lost four teeth and suffered contusion on the neck and cervical spondylosis. The claimant therefore, claimed a sum of Rs.10,00,000/- as compensation.

3. The respondent/transport corporation filed a counter contesting the claim petition on various grounds. The Tribunal on assessment of entire evidence on record, awarded a sum of Rs.70,117/- as compensation along with interest at the rate of 7.5% per annum. Not satisfied with the amount awarded by the Tribunal, the claimant has filed present Civil Miscellaneous Appeal for enhancement of compensation.

4. The short point to be decided in the appeal is the quantum of compensation payable to the claimant for the injuries sustained by her in the accident. The learned counsel for the appellant submitted that the



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accident was of the year 2016 and as the per the judgment of this Court, in ***M.Chinnathambi vs. S.Deepa, National Insurance Co. Ltd.***, reported in 2020 (1) TNMAC 617 (Mad), the Tribunal ought to have have awarded Rs.5,000/- per percentage of disability, instead of Rs.3,000/- per percentage of disability. The learned counsel further submitted that considering the nature of the injuries sustained by the claimant, the Tribunal ought to have assessed the disability at 20% instead of 10%. The learned counsel further submitted that the award of the Tribunal towards loss of income during period of treatment and pain and suffering was very meagre and therefore the same should be enhanced.

5. The learned counsel for the respondent on the other hand submitted that the award passed by the Tribunal is just, fair and reasonable and therefore, it does not call for any interference by this Court in the Civil Miscellaneous Appeal.

6. Heard the learned counsel for the petitioner as well as the learned counsel for the respondent and perused the entire material placed on record.



7. It is not disputed that in the accident, the claimant had lost four teeth and the same is evidenced by the disability certificate issued by the Doctor. Therefore, I am of the opinion that the assessment of disability at 10% is not proportionate to the nature of the injuries sustained by the claimant. Hence, the percentage of disability is fixed at 20% and amount of Rs.5,000/- is fixed per percentage of disability following the judgment of the this Court in ***M.Chinnathambi vs. S.Deepa, National Insurance Co. Ltd.***, reported in 2020 (1) TNMAC 617 (Mad).

8. The claimant lost four teeth and had contusion on the neck and cervical spondylosis. As a vegetable vendor she would have lost her income for atleast two months after the accident and therefore, the amount of Rs.16,000/- is granted towards loss of income for the period of two months. Considering the nature of the injuries sustained by the claimant and also her age, an amount of Rs.25,000/- is awarded towards pain and suffering. On other aspects, the award of the Tribunal is confirmed as just, fair and reasonable. In the light of the above discussion, the award of the Claims Tribunal is modified as follows:



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S.N o	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Permanent Disability	30,000/- (10 x 3)	1,00,000/- (20 x 5000)	Reduced
2.	Medical Expenses	5,117/-	5,117/-	Confirmed
3.	Loss of Income	8,000/-	16,000/-	Enhanced
4.	Pain and Suffering	10,000/-	25,000/-	Enhanced
5.	Transportation Expenses	5,000/-	5,000/-	Confirmed
6.	Additional Nourishment	5,000/-	5,000/-	Confirmed
7.	Damages to Clothes	1,000/-	1,000/-	Confirmed
8.	Attender Charges	1,000/-	1,000/-	Confirmed
9.	Loss of Amenities	5,000/-	10,000/-	Enhanced
	Total	Rs.70,117/-	Rs.1,68,117/-	Rs.98,000/- Enhanced

9. In fine, the appellant would be entitled to an enhanced compensation of Rs.1,68,117/-. The respondent transport corporation is



N.MALA, J.
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directed to deposit a sum of Rs.1,68,117/- along with interest at the rate of 7.5% per annum, from the date of accident till the date of payment, less any amount if already paid. On such deposit, the claimant would be entitled to withdraw the said amount by making appropriate application before the Claims Tribunal.

10. Accordingly, this Civil Miscellaneous Appeal is partly allowed. No costs.

28.03.2023

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Index : Yes/No

Neutral Citation : Yes/No

To:

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

C.M.A.No.953 of 2021

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