



C.M.A.No.1093 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

C.M.A.No.1093 of 2020

A.Gowri

...Appellant

Vs.

The Managing Director,
Tamilnadu State Transport Corporation Ltd.,
Divn.III, Kanchipuram.

...Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, as against the award passed by the Motor Accidents Claims Tribunal, Small Causes Court No.III in M.C.O.P.No.8793 of 2015 dated 07.08.2018.

For Appellant : Mr.T.G.Balachandran

For Respondent : Mr.S.S.Santhosakumar

JUDGEMENT

Challenging the award passed by the Motor Accidents Claims Tribunal, Small Causes Court No.III in M.C.O.P.No.8793 of 2015 dated 07.08.2018, the claimant has come up with this appeal.



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2. The case of the appellant is that, on 18.10.2015, at about 14.15 hours, when the appellant was travelling in the respondent bus bearing Regn.No.TN-21-N-1576, from Chennai through ECR, as the driver of the respondent bus applied sudden brake in order to avoid collision with the bus that was coming in the opposite direction, the respondent bus capsized, as a result of which, the appellant sustained grievous injuries all over her body and got admitted in the hospital. Thereafter, the appellant filed a claim petition claiming a compensation of Rs.10,00,000/-. After contest, the tribunal, vide impugned judgment awarded a compensation of Rs.73,400/-. Aggrieved with the said order, the present appeal has been filed by the claimant seeking enhancement of the compensation fixed.

3. Learned counsel appearing for the appellant submitted that admittedly, the above said accident occurred solely due to the rash and negligent driving of the driver of the respondent corporation bus, due to which, the appellant sustained functional disability and the appellant being a Tailor by profession, is not able to perform her avocation which she was carrying on before the accident and due to which, her earning capacity got reduced.



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Further, pursuant to the direction of this Court, the appellant appeared before the Regional Medical Board, Rajiv Gandhi Government General Hospital, Chennai and the Medical Board, after carefully examining the appellant, issued a Disability Certificate holding that, the appellant sustained Permanent disability of 90%, for which, the appellant is entitled to claim compensation by applying multiplier method. Whiles, the Tribunal had awarded only a meagre sum of Rs.30,000/- under the head of Disability, which is not sustainable. Further, the compensation awarded under the other heads are also on the lower side and the same requires to be reconsidered and a higher compensation ought to be awarded to the appellant. Accordingly, he prays for appropriate enhancement in favour of the appellant.

4. Per contra, learned counsel appearing for the respondent submitted that, by considering all the relevant documents, the Tribunal has rightly awarded the compensation, which does not require any further enhancement. Accordingly, he prays for dismissal of the appeal.

5. Heard the learned counsel for the appellant and the learned counsel



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appearing for the respondent and perused the materials available on record.

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6. The factum and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The major grievances of the appellant is with regard to the quantum of compensation and the negligence fixed by the Tribunal. It is claimed by the appellant that the accident is of the year 2015 and at the time of accident, the appellant was aged about 42 years and she is a Tailor by profession and was earning a sum of Rs.10,000/- per month, however, without considering the same, the Tribunal has fixed the notional income at Rs.6,500/-. It has been the view of the Courts that even a housewife is entitled to monthly income to be fixed for the purpose of qualifying their work for the purpose of quantifying the amount receivable by them. Even it has been held by the Apex Court that the wages should be in line with the minimum wages fixed by the State. Applying the ratio laid down by the Hon'ble Supreme Court in the case of *Syed Sadiq Vs. United India Insurance Company* reported in *2014 (1) TANMAC 459*, fixing a notional income of Rs.8,000/- and adding future prospects at 25%, as has been held by the Constitution Bench in the case of *National Insurance Company Limited*



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Vs. Pranay sethi and others reported in ***2017 (16) Supreme Court Cases 680***,

the income per month is quantified at Rs.10,000/- and the appellant being aged about 42 years, as evidenced from the records, adopting the multiplier of 14 as fixed by the Apex Court in the case of ***Sarla Verma and Ors. v. DTC & Ors.*** reported in ***(2009) 6 SCC 121***, and as the appellant suffered functional disability of 90%, the loss of income is arrived at $\text{Rs.10,000/-} \times 12 \times 14 \times 90\% = \text{Rs.15,12,000/-}$.

7. Insofar as the compensation awarded under the heads Pain and Suffering, Extra nourishment, Transport to hospital, Attender charges, Future medical expenses are concerned, this Court is of the view that the compensation awarded under the said heads are on the lower side and accordingly, the same has to be enhanced. Further, a sum of Rs.6,500/- and a sum of Rs.2,500/- has been awarded under the heads “Loss of income” and “Loss of amenities” respectively, which is not sustainable and the same has to necessarily be interfered with.

8. In the above circumstances, the compensation awarded by the



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Tribunal is modified as under :-

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Heads	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
Disability	30,000/-	15,12,000/-
Pain and sufferings	10,000/-	50,000/-
Extra Nourishment	5,000/-	10,000/-
Transportation expenses	5,000/-	10,000/-
Damages to clothes	500/-	500/-
Attender Charges	400/-	10,000/-
Medical Expenses	8,500/-	8,500/-
Future medical expenses	5,000/-	10,000/-
Loss of income	6,500/-	-
Loss of amenities	2,500/-	-
Total	73,400/-	16,11,000/-

9. Accordingly, the appeal stands allowed and the impugned Award of the Tribunal is modified by enhancing the compensation amount from **Rs.73,400/-** to **Rs.16,11,000/-**. The respondent is directed to deposit the said amount to the credit of M.C.O.P.No.8793 of 2015 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 six (6) weeks from the date of receipt of a copy of



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this judgment. On such deposit being made, the Tribunal is directed to transfer the said amount directly to the bank account of the appellant through RTGS within a period of two (2) weeks thereafter, upon production of proof with regard to payment of Court fee on the enhanced compensation by the appellant. There shall be no order as to costs in the present appeal.

07.12.2023

skt

Index : Yes / No
Speaking Order : Yes / No
Neutral Citation Case : Yes / No

To

- 1.The Motor Accidents Claims Tribunal, Small Causes Court No.III,
Chennai.
- 2.The Section Officer,
V.R. Section, High Court, Madras.



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M.DHANDAPANI, J.

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