



C.M.A.No.1780 of 2018

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 21.02.2023

CORAM:

THE HONOURABLE Mr. JUSTICE A.A.NAKKIRAN

C.M.A.No. 1780 of 2018

S.Bhuvaneswari

... Appellant/Petitioner

Vs.

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

... Respondent/Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act against the Award and Decree dated 09.12.2014 in M.C.O.P.No.4935 of 2011 on the file of the learned VI Judge, Small Causes Court, Motor Accidents Claims Tribunal, Chennai.

For Appellant : Ms.M.Malar

For Respondent : Mr.S.S.Swaminathan



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JUDGMENT

The appellant has filed the above appeal aggrieved by the very meagre compensation that has been granted by the learned VI Judge, Small Causes Court, Motor Accidents Claims Tribunal, Chennai, in M.C.O.P.No.4935 of 2011 dated 09.12.2014.

2.It is the case of the claimant that on 16.02.2011 about 05.30 hours, while the petitioner was intending to board the MTC bus, bearing Registration No.TN 01N 5288 at Egmore Railway Station bus stop, at that time the driver of the MTC bus drove the bus in a rash and negligent manner and dashed against the petitioner. The wheel of the bus ran over the right leg of the petitioner. Due to the accident, the petitioner sustained grievous injuries. Since the accident occurred only due to the rash and negligent driving



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of the driver of the bus, the respondent is liable to pay Rs.6,00,000/- as compensation to the claimant.

3.The respondent Transport Corporation filed their counter statement stating that after alighting and boarding the passengers, the driver of the bus started to move the bus very slowly. Suddenly, the driver saw through the left side mirror of the bus, a female intending passenger tried to board into the running bus through the front foot board without caring about the approach of other vehicles which are coming to her left side. On seeing the urgency of the female passenger, the driver applied sudden brake and stopped the bus. Due to the same, the petitioner could not control his balance and hit an unknown auto rickshaw and grazed again at the left side body of the bus and fell down and sustained injuries. The accident occurred only due to the act of the petitioner and therefore, the driver is not



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responsible for the accident. Hence, the liability has to be fixed with greater percentage on the injured. Further, there is no permanent disability as the injuries are simple in nature.

4.The Tribunal after considering the evidence on record came to a conclusion that the accident was occurred due to rash and negligent driving of the driver of the respondent bus. Ultimately, the Tribunal has awarded a sum of Rs.3,70,000/- towards compensation with interest @ 7.5% per annum from the date of petition till the date of realization to the petitioner. Aggrieved by the very meagre compensation that has been granted by the Tribunal, the petitioner is before this Court.

5.The learned counsel appearing for the appellant /petitioner would submit that the Tribunal failed to consider the injuries sustained by the injured. At the time of accident, the



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injured was aged 35 years and doing Tailoring and earned about Rs.10,000/- per month. The petitioner sustained PTS RAW area right thigh and leg and meshed grafting done on 28.03.2011 under SA. The petitioner also took treatment at Government General Hospital from 24.03.2011 to 02.04.2011 as inpatient and further continuing treatment as outpatient at Nalam Hospital, Trichy. PW2-Doctor assessed the disability as 40% which was taken as 35% by the Tribunal. No amount has been awarded under various heads and therefore, the Award has to be enhanced.

6.Per contra, the learned counsel appearing for the respondent would submit that the amounts granted under various heads are excessive and prayed for dismissal of the appeal.



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7. Heard the learned counsel appearing on either side and perused the papers.

8. From the material available on record, it is seen that the appellant was employed as Tailor and earning Rs.10,000/- per month. Considering the avocation of the appellant, this court fixed the monthly income as Rs.8,500/- per month. Further, she suffered grievous injuries all over the body. To substantiate the injuries sustained by him, the appellant has examined PW2 Doctor who deposed about the nature of injuries and treatment taken by the appellant and assessed the disability as 40%. Due to the injuries sustained, the petitioner also took treatment at Government General Hospital from 24.03.2011 to 02.04.2011 as inpatient and further continuing treatment as outpatient at Nalam Hospital, Trichy. Therefore, Rs.85,000/- (8,500 x 10 months) is awarded under the head of loss of income for ten



months during the period of hospitalization. Further, the award amount under the head of Pain and Sufferings is very low. The appellant suffered disfigurement of leg and discomfort in wearing dress. Therefore, Rs.25,000/- granted under the head of Pain and Sufferings is enhanced to Rs.35,000/-. In all other respects, the Award remains unaltered. The enhanced compensation would be a sum of Rs.4,00,000/-. Therefore, taking into consideration the above aspects, the modified amount is as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1.	Disability (35% x 3,000)	Rs.1,05,000/-	Rs.1,05,000/-	Confirmed
2.	Medical Expenses	Rs.50,000/-	Rs.50,000/-	Confirmed
3.	Loss of income for ten months (8,500 x 10)	Rs.65,000/-	Rs.85,000/-	Enhanced
4.	Transportation	Rs.10,000/-	Rs.10,000/-	Confirmed



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S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
5.	Extra nourishment	Rs.25,000/-	Rs.25,000/-	Confirmed
6.	Attendant charges	Rs.10,000/-	Rs.10,000/-	Confirmed
7.	Damage to clothes	Rs.5,000/-	Rs.5,000/-	Confirmed
8.	Loss of amenities	Rs.25,000/-	-Rs.25,000/-	Confirmed
9.	Pain and Sufferings	Rs.25,000/-	Rs.35,000/-	Enhanced
10.	Loss of expectancy of life	Rs.25,000/-	Rs.25,000/-	Confirmed
11.	Disfigurement of leg and Discomfort in wearing dress	Rs.25,000/-	Rs.25,000/-	Confirmed
	Total	Rs.3,70,000/-	Rs.4,00,000/-	



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9. Accordingly, this Civil Miscellaneous Appeal is partly allowed. The 2nd respondent/Transport Corporation is directed to deposit the entire compensation amount of Rs.4,00,000/- with interest @7.5% per annum, less the amount already deposited, with proportionate accrued interest and costs, to the credit of M.C.O.P.No.4935 of 2011 on the file of the learned VI Judge, Small Causes Court, Motor Accidents Claims Tribunal, Chennai, within a period of four weeks from the date of receipt of a copy of this order, if not deposited earlier. On such deposit, the appellant is permitted to withdraw the entire award amount with proportionate accrued interest and costs by making necessary applications.



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The claimant is directed to pay the Court fee for the compensation amount, if required. The Tribunal below shall not disburse the amount till such time as proof of payment of Court Fee has been produced by the claimant. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes/No
Internet : Yes/No
Speaking order / Non speaking order
mps

To

The VI Judge,
Small Causes Court,
Motor Accidents Claims Tribunal,
Chennai.



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A.A.NAKKIRAN, J.

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