



C.M.A.No.2374 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2023

CORAM:

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

CMA. No.2374 of 2019

Savithiri
Appellant

...

..VS..

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Chennai – 600 002.

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 24.01.2019 made in MCOP.No.4570 of 2015 on the file of the Motor Accident Claims Tribunal, (VI Small Causes Court, Chennai).

For Appellant : Mr.R.Nalliyappan

For Respondent : Mr.S.Sivakumar

J U D G M E N T

Aggrieved over the quantum of compensation arrived at by the Tribunal at Rs.2,12,000/- along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit, the claimant /



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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 08.05.2015 at 18.15 hours., while the claimant was boarding the bus bearing Regn.No.TN-01-N-4880 at OMR Salai, SRP Tools bus stop, the driver of the bus started the bus in a rash and negligent manner and moved the bus ignoring the boarding passenger and hence she fell down and the left side wheel of the bus ran over the right foot of the appellant and thus she sustained grievous injuries. Claiming that the driver of the bus has caused the accident, the respondent is liable to pay compensation, claim petition came to be filed claiming a sum of Rs.8,00,000/- as compensation before the Tribunal.

3. The learned counsel for the appellant would submit that the Tribunal has not considered that the accident caused by the driver of the



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respondent vehicle, due to which, the appellant suffered with amputation of right leg due to the crush injury. He further submitted that she is not able to continue her regular work and hence the Tribunal ought to have adopt multiplier method to award on the head of disability considering the nature of injuries. He further submitted that Tribunal ought to have appreciate that the PW2 has assessed the disability of the appellant as 40% and issued Ex.P11/Disability Certificate, however adopted only 30% as disability. Since her right leg was amputated and PW2 has not assessed the disability to the whole body, it is not correct to hold percentage method to award on the head of disability. He further submitted that the injuries suffered by the appellant are permanent. But it has awarded very meagre amount on the head of pain and sufferings, transportation, attender charges, loss of earnings and extra nourishment. It has also failed to award on the head of future medical expenses. Hence, he prays for the enhancement of the appeal.

4. On the contrary, the learned counsel for the



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respondent/Transport Corporation would submit that the P.W.2-Doctor has certified the disability of the appellant @ 40% due to the crush injuries on the right leg and amputation. However, the appellant has not proved that due to the above said injuries, her earning capacity has been affected. Having considered the entire oral and documentary evidence, the Tribunal has awarded a fair and reasonable compensation. Hence, this Court need not to interfere with the award passed by the Tribunal.

5. Heard, the learned counsel for the appellant and the learned counsel for the respondent. Perused the materials available on record.

6. The Tribunal, based on the oral and documentary evidences, has awarded a sum of Rs.2,12,000/- as total compensation payable by the respondent to the claimant under the following heads:

Heads	Award Amount (Rs.)
Disability	90,000/-
Pain and Sufferings	30,000/-
Extra Nourishment	10,000/-



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Heads	Award Amount (Rs.)
Transport to Hospital	10,000/-
Damages to clothes	1000/-
Attender charges	2000/-
Loss of income	24000/-
Medical Expenses	24,958/-
Loss of Amenities	20,000/-
Total	Rs.2,11,958/-

Rounded off to Rs.2,12,000/-

7. Considering the nature of the injuries sustained by the Appellant/claimant, this Court is inclined to fix the percentage of disability at Rs.4000/- for each percentage of disability since the year of the accident is 2015. However, in view of the modification of the Rs.3000/- to Rs.4000/- for each percentage by this Court, the disability compensation is enhanced to Rs.1,60,000/- by this Court instead of Rs.90,000/- as assessed by the Tribunal. Similarly, the amounts awarded under the heads of 'pain and sufferings', 'Extra Nourishment', and 'attender charges' are also enhanced to Rs.40,000/-, Rs.15,000/- and Rs.5000/-, respectively.



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8.The Tribunal has awarded Rs.1000/- towards damages to clothes, Rs.10,000/- towards Transport to Hospital, Rs.24,000/- towards loss of income, Rs.24,958/- towards 'medical expenses', and Rs.20000/- towards 'loss of amenities' which in the opinion of this Court, is based on evidence on record and hence the said sum awarded under these heads are confirmed as such. Thus, the break-up details of the modified compensation are as follows:

Heads	Amount (Rs.)
Disability(40%x4000)	1,60,000
Pain and suffering	40,000
Extra Nourishment	15000
Transport	10,000
Attender Charges	5,000
Damages to clothes	1,000
Loss of income	24,000
Medical Expenses	24,958
Loss of Amenities	20,000
Total	Rs.2,99,958/-



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Rounded off to **Rs.3,00,000/-**

9. In the result, the Civil Miscellaneous Appeal filed by the claimant/appellant is partly allowed by enhancing the total compensation from Rs.2,12,000/- to **Rs.3,00,000/-**, which is payable with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. It is made clear that for the enhanced amount of Rs.88,000/-, the interest rate of 7.5% shall be calculated from the date of filing of this appeal. Since the compensation amount now awarded is Rs.3,00,000/-, it is made clear that the claimant has to pay the appropriate Court fee in order to receive the enhanced award amount.

10. The respondent/Transport Corporation 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 being made, the Tribunal is directed to transfer the award amount along with accrued



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interest as per the order of this Court to the appellant/claimant through RTGS within a period of two weeks thereafter. No costs.

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Index : yes/No

Internet: Yes/No

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To

1. The Motor Accident Claims Tribunal,
(VI Small Causes Court, Chennai).

2. The Section Officer,
V.R.Section,
Madras High Court,
Chennai-104.

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