



C.M.A.No. 1258 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.06.2023

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

CMA.No. 1258 of 2022

R.Anju

...Appellant

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram Ltd.,
Villupuram

...Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 challenging the Judgment and Decree passed in M.C.O.P.No.5742 of 2015 dated 12.03.2018 on the file of the Motor Accidents Claims Tribunal/ in the Principle Special Judge, Special Court under E.C. & NDPS Act, Chennai.

For Appellant : Mr.R.Mohan Babu

For Respondent: M/s.J.Tamil Selvi



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JUDGMENT

This appeal is filed challenging the Award and Decree dated 12.03.2018 passed in M.C.O.P.No.5742 of 2015 on the file of the Motor Accidents Claims Tribunal, Special Court under E.C. & NDPS Act, Chennai.

2. The appeal is filed by the claimant seeking for enhancement of compensation.

On 30.05.2015, when the claimant was travelling in the respondent Transport Corporation bus, the driver of the bus drove the vehicle in a rash and negligent manner, hit another bus and caused the accident. The claimant sustained grievous injuries in the accident. According to the claimant, the accident occurred due to the rash and negligent driving of driver of the bus and therefore he filed the claim petition seeking a sum of Rs.5,00,000/- as compensation for the injuries sustained by her in the accident.

3. Before the Claims Tribunal, the claimant examined herself as P.W.2 and Doctor was examined as P.W.3 and Ex.P.1 to Ex.P.27 were



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filed on the side of the claimant. On the side of respondent, the driver was examined as R.W.1, but no documents were marked.

4. The Claims Tribunal on an assessment of the entire evidence on record assessed the compensation at Rs. 1,56,000/- along with 7.5% interest and mulcted the liability on the respondent/Transport corporation. Not satisfied with the award passed by the Tribunal, the claimant has preferred the above appeal.

5. The learned counsel for the claimant submitted that the award of the Claims Tribunal towards disability was erroneous, as the claims tribunal without regard to the nature of injuries suffered by the claimant reduced the percentage of disability to 30% as against the assessment made by the Doctor at 50%. The learned counsel further submitted that the Tribunal erred in awarding Rs.2,500/- per percentage of disability for an accident which took place in the year 2015. The learned counsel relying on the Judgment in the case of *M.Chinnathambi Vs. S.Deepa's* reported in 2020(1) TN MAC 617, submitted that the Claims Tribunal ought to have awarded Rs.4,000/- per percentage of disability. The



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learned counsel further submitted that even the award towards other heads were also meagre and the same deserved to be enhanced.

6. The learned counsel for the respondent/Transport Corporation on the other hand submitted that the award passed by the Claims Tribunal was just, fair and reasonable and did not call for any interference by this Court.

7. It is seen that the claimant suffered illiac bone fracture and she further lost 8 teeth in the accident. The Doctor assessed the permanent disability for loss of teeth at 24% and for fracture of the pelvic bone assessed the disability at 30% partial permanent disability. In my view the Tribunal without any sound reasons reduced the percentage of disability from 54% to 30%. The assessment of permanent disability at 24% for loss of 8 teeth and 30% partial permanent disability for pelvic fracture assessed by the Doctor under the disability certificate Ex.P.24 cannot be lightly interfered with as the same is given by an expert and on the basis of materials placed before him. The learned counsel for the claimant is justified in relying on the judgment of this Court in



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Chinnathambi's case in support of his contention that the claimant is entitled to Rs.4,000/- per percentage of disability. Therefore, following the Judgment of this Court in the case *M.Chinnathambi Vs S.Deepa* reported in 2020(1) TN MAC 617, Rs.4,000/- is fixed towards per percentage of disability. As I find that the disability assessed by the Doctor at 54% does not call for any interference, the award towards permanent disability is assessed at Rs.2,16,000/- ($54\% \times 4,000 = 2,16,000/-$) instead of Rs.75,000/- assessed by the Tribunal.

8. It is seen that the claimant was hospitalised from 30.05.2015 to 04.06.2015 i.e. period of 6 days. Considering the nature of injuries and the period of hospitalisation, the award towards Transport charges, extra nourishment, pain and suffering are enhanced. The tribunal failed to award any sum towards loss of amenities and attender charges. The award towards attender charges and loss of amenities is assessed at Rs.5,000/- and Rs.10,000/- respectively.



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9. The award of the Tribunal is modified as follows.

S.No	Various Heads	Award by Tribunal (amount in Rs.)	Award by this Court (amount in Rs.)
1.	Loss of earning	4,000/-	10,000/-
2.	Transport charges	2,000/-	10,000/-
3.	Extra nourishment	1,000/-	5,000/-
4.	Damages to clothing and articles	1,000/-	1,000/-
5.	Medical expenses	63,000/-	63,000/-
6.	Attender charges	-	5,000/-
7.	Loss of amenities in life	-	10,000/-
8.	Pain and suffering	10,000/-	20,000/-
9.	Disability	75,000/-	2,16,000/-
Total		1,56,000/-	3,40,000/-

The claimant is therefore entitled to compensation of Rs.3,40,000/- along with 7.5% interest as compensation.

10. The learned counsel for the appellant submitted that the respondent has not deposited any amount before the Tribunal, therefore a direction is issued to the respondent/Transport corporation to deposit the compensation awarded at Rs.3,40,000/- (Rupees Three Lakhs Forty Thousand only) along with 7.5% interest from the date of claim petition till the date of deposit within a period of six (6) weeks from the date of receipt of copy of this Judgment. On such deposit being made, the



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claimant shall be entitled to withdraw the same.

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In the result, this Civil Miscellaneous Appeal is partly allowed.

There shall be no order as to costs.

20.06.2022

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dsn

Index: Yes/No

Speaking Order: Yes/No

Neutral citation: Yes/No

To

The learned Principle Special Judge,
Special Court under E.C. & NDPS Act,
Motor Accidents Claims Tribunal,
Chennai.

Copy to

The Section Officer,
V.R. Section,
High Court, Madras.



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N.MALA.,J.

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