



CMA.No.1929 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 15.06.2023

PRONOUNCED ON: 21.07.2023

CORAM

THE HON'BLE Mr.JUSTICE **C.KUMARAPPAN**

C.M.A.No.1929 of 2021

Sundari

... Appellant

- Vs -

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Railway Station New Road,
Kumbakonam Taluk,
Thanjavur District-612 001.

... Respondent

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, praying to allow the appeal and enhance the compensation in MCOP.No.2426 of 2015 dated 07.11.2020 on the file of the Motor Accidents Claims Tribunal/1st Additional District and Sessions Judge, Cuddalore.

For Appellant : Ms.Ramya V.Rao

For Respondents : Mr.Murali Vinodh
Standing counsel



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JUDGMENT

This appeal is directed against the award passed in MCOP.No.2426 of 2015 dated 07.11.2020 on the file of the Motor Accidents Claims Tribunal/ 1st Additional District & Sessions Judge at Cuddalore.

2. For the sake of convenience, the parties are referred to by their ranks in the petition.

3. The claimant, who was granted compensation of Rs.39,333/- along with interest at the rate of 7.5% p.a for injury sustained by her, challenging the quantum, filed this Appeal.

4. The case of the claimant is that on 17.05.2015 when she was travelling as a pillion rider in a two wheeler bearing Registration No.PY-01-AS-5143 driven by her husband, a bus belonging to the respondent bearing Registration No.TN-49-1989, came in a rash and negligent manner and suddenly applied the brake and took a right turn. As a result of which, the bus hit against the petitioner's motorcycle and thereby, the petitioner sustained grievous injuries.



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5. The defence of the respondent is that, only the petitioner was rash and negligent, and that the petitioner did not wear a helmet, and the accident has occurred only because of the negligent driving of the petitioner's husband.

6. Before the Tribunal, the petitioner examined 2 witnesses as PW-1 & PW-2 namely the petitioner and her husband, and marked 12 documents as Exs.P1 to P12. The respondent neither examined any witnesses nor marked any documents. As Court document exhibit Ex.C1 was marked.

7. The Tribunal, upon considering the oral and documentary evidence and on hearing arguments of both sides, has passed an impugned award on 07.11.2020, holding that the driver of the respondent-Transport Corporation was rash and negligent, and directed the respondent-Transport Corporation to pay the compensation of Rs.39,333/- along with interest and costs.

8. The learned counsel for the appellant would submit that Tribunal has not considered the grievous nature of the injuries, and the period of treatment of the petitioner as inpatient from 17.05.2015 to 20.05.2015. She also would contend that the quantum of compensation determined for the permanent disability is very meager. Hence, prayed for a reasonable enhancement of the award.



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9. However, the learned counsel for the respondent would vehemently contend that the award passed by the Tribunal is perfectly in order, and that there is no scope for any interference.

10. I have given my anxious consideration to either side submissions.

11. It is pertinent to mention here that in this case, there is no challenge against the findings of the Tribunal in respect of the rash and negligent driving on the part of the driver of the respondent-Transport Corporation. Therefore, the only issue which this Court has to consider is the quantum of compensation.

12. On perusal of the counter statement, the respondent disputes the income and the avocation of the injured. But did not think fit to examine any witnesses. The learned counsel for the petitioner would invite the attention of this Court about Court exhibit Ex.C1 viz., disability certificate of the petitioner. As per the disability certificate, the petitioner's partial permanent disability was determined as 3%. For the above disability, the Tribunal has



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awarded a sum of Rs.9,000/- as a total compensation, by taking into consideration of Rs.3,000/- per percentage of disability.

13. This Court is of the view that awarding Rs.3,000/- per percentage for the accident of the year 2015 needs some reasonable enhancement. It is relevant to refer to the judgment in *M.Chinnathambi Vs. S.Deepa & another* reported in **2020 (1) TNMAC 617**, wherein this Court has awarded a sum of Rs.4,000/- per percentage towards disability for the accident that took place during 2014 & 2015. Even the case on hand is of the 2015 accident. Therefore, this Court is inclined to award a sum of Rs.4,000/- as compensation for per percentage of disability. Hence, towards the permanent disability, the petitioner is entitled to a sum of Rs.12,000/- [Rs.4000 x 3%].

14. The Tribunal has awarded a sum of Rs.10,000/- towards loss of income, on the premise that the petitioner could not have attended her avocation of milk vending for atleast two months. This Court also accepts the said finding. However, this Court is inclined to award a sum of Rs.13,000/- on this head considering the fact that the accident took place recently during 2015. Towards pain and suffering, this Court is inclined to enhance another



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sum of Rs.5,000/- and to award a total sum of Rs.15,000/-. For Extra Nourishment and Transport expenses, this Court is inclined to enhance the award to another sum of Rs.5,000/- and to award total sum of Rs.10,000/- under this head. However, the amount awarded for medical expenses do not require any interference and the same is confirmed.

15. In view of the above enhancement on certain heads, the recalculation of the total award is as follows:-

<i>S. No.</i>	<i>Heads under which the amount is awarded by the Tribunal</i>	<i>Amount awarded by the Tribunal in Rs.</i>	<i>Amount awarded by this Court in Rs.</i>	<i>Award confirmed or enhanced or increased or reduced</i>
1.	Permanent disability	9,000 [Rs.3000 x 3]	12,000 (Rs.4000x3)	Enhanced
2.	Medical expenses	5,333	5,333	confirmed
3.	Loss of income	10,000	13,000	Enhanced
4.	Pain and sufferings	10,000	15,000	Enhanced
5.	Extra nourishment & Transport Expenses	5,000	10,000	Enhanced
	Total	39,333/-	55,333/-	Enhanced



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16. Hence, this Civil Miscellaneous Appeal is partly allowed and the impugned award of the Tribunal is modified, by enhancing the compensation amount from Rs.39,333/- to **Rs.55,333/-**. The respondent/Transport Corporation is directed to deposit the enhanced amount to the credit of MCOP.No.2426 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 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 this judgment. On such deposit being made, the petitioner/claimant is permitted to withdraw the award amount along with interest and costs as awarded by the Tribunal, less the amount if any already withdrawn. The claimant is directed to pay the necessary court fee for the enhanced compensation amount, if required. The Tribunal below shall not disburse the enhanced amount till such time the certified copy showing proof of payment of Court fee is produced by the claimant. There shall be no order as to costs in the present appeal.

21.07.2023

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Index : yes/no

Speaking/Non Speaking Order



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C.KUMARAPPAN.J

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To

1. The 1st Additional District & Sessions Court,
Motor Accident Claims Tribunal,
Cuddalore.
2. The Section Officer,
V.R.Section,
High Court, Madras.

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