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C.M.A.No.1892 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2023

CORAM :

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

C.M.A.No.1892 of 2020

Mari

... Appellant/Petitioner

Vs.

The Managing Director,
Tamilnadu State Transport Corporation Limited,
Tiruvannmalai Region.

... Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 20.11.2017 made in M.A.C.T.O.P.No.793 of 2017 on the file of the Motor Accident Claims Tribunal, Special Sub Court, (MCOP) Tiruvannamalai.

For Appellant : Ms.A.Subadra

For Respondent : Mr.S.Santhosa Kumar

JUDGMENT

Assailing the judgment and decree passed by the Tribunal in and by which the Tribunal had awarded lower compensation, the present appeal



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has been filed by the claimant/appellant seeking enhancement of compensation.

2. On 20.01.2014 at about 1.30 p.m., the petitioner was travelling as a passenger in the respondent's bus bearing Reg.No.TN 23 N 1524 at the extreme left side of Kilaiyur to Chengam main road near Angalaparameshwari Temple at Raji Nagar. At that time, the driver of the bus driven the vehicle in a rash and negligent manner and suddenly applied brake, due to which, the petitioner was thrown out from the bus, as a result of which, she sustained grievous injuries all over her body. Thereafter, she filed a claim petition before the Tribunal claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by her in the said accident.

3. Before the Tribunal, the claimant examined herself as P.W.1 and marked 5 documents viz., Ex.P.1 to Ex.P.5. No witnesses were examined nor any documents were marked on the side of the respondent and the Court Document Ex.C.1 has been marked by the Tribunal. After adjudication, the Tribunal awarded a sum of Rs.90,000/- as compensation



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to the claimant. Not satisfied with the same, the claimant is before this Court by way of this appeal.

4. The learned counsel appearing for the appellant submitted that, at the relevant point of time, per percentage of disability is Rs.4,000/-. Though the Tribunal had held that the appellant had sustained 15% disability, however, the Tribunal had awarded a sum of Rs.45,000/- by fixing a sum of Rs.3,000/- per percentage of disability, which is wholly unsustainable and the same requires to be re-considered. Accordingly, she prays for appropriate enhancement in favour of the appellant.

5. Per contra, the learned counsel appearing for the second respondent submitted that, the amount of Rs.3,000/- awarded per percentage of disability is reasonable and so also the compensation awarded under the other heads, which does not require any enhancement. Accordingly, he prays for dismissal of the appeal.

6. Heard the learned counsel appearing on behalf of the parties and perused the materials available on record.



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7. The factum and manner of the accident is not in dispute. Therefore, this Court is not entering into the said aspect. The only grievance of the appellant is with regard to the quantum of compensation awarded by the Tribunal. It is borne from the award passed by the Tribunal that the Medical Board opined that there is no disability to the appellant. However, the Medical Board did not take into consideration the fractures sustained by the appellant in 5th to 8th ribs at the left side. Therefore, based on Ex.P.3 and Ex.P.8, the Tribunal had fixed the percentage of disability sustained by the appellant at 15% and erroneously awarded a sum of Rs.45,000/- by fixing a sum of Rs.3,000/- per percentage of disability, which is unsustainable and the same needs to be enhanced. Therefore, the amount under the head loss of earning due to "disability" stands enhanced to a sum of Rs.60,000/- (15 x Rs.4,000/- = Rs.60,000/-).

8. Further, the Tribunal had awarded a sum of Rs.20,000/- towards pain and sufferings; Rs.15,000/- towards Loss of earning during the treatment period; Rs.5,000/- towards Extra Nourishment and Rs.5,000/-



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towards Transport expenses. This Court finds that the compensation awarded under the heads loss of earning during the treatment period, extra nourishment and transport expenses are just and reasonable and does not require any interference. However, insofar as the compensation awarded towards pain and sufferings is concerned, this Court feels that a sum of Rs.25,000/- would be just and reasonable compensation. Further, taking into account the nature of injuries suffered by the appellant/claimant, this Court awards a sum of Rs.5,000/- towards attender charges.

9. In view of the above, the compensation awarded by the Tribunal is modified as under :

<i>S.No.</i>	<i>Description</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
1	Disability (10%)	45,000/-	60,000/- (enhanced)
2	Pain and Sufferings	20,000/-	25,000/- (enhanced)
3	Loss of earning during the treatment period	15,000/-	15,000/-
4	Extra Nourishment	5,000/-	5,000/-
5	Transportation expenses	5,000/-	5,000/-
6	Attender charges	-	5,000/-
	Total	90,000/-	1,15,000/-



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10. Accordingly, the appeal is partly allowed and the impugned award of the Tribunal is modified, enhancing the compensation amount from **Rs.90,000/-** to **Rs.1,15,000/-**. The respondent is directed to deposit the said amount to the credit of M.C.O.P.No.793 of 2017 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 four (4) 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 directly to the bank account of the appellant/claimant through RTGS within a period of two weeks thereafter upon production of proof with regard to payment of Court fee on the enhanced compensation. The appellant/claimant is directed to pay necessary additional Court fee on the enhanced compensation amount. There shall be no order as to costs in the present appeal.

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

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- To
- 1.The Motor Accident Claims Tribunal,
Special Sub Court, (MCOP)
Tiruvannamalai.
 - 2.The Section Officer,
V.R.Section,
High Court, Madras.



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M.DHANDAPANI, J.,

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