



C.M.A No.43 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 20.11.2023

CORAM

MR.JUSTICE N.SESHASAYEE

C.M.A.No.43 of 2022

Dhanalakshmi

... Appellant

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Tiruvannamalai Region.

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 23.09.2021 and made in M.A.C.T.O.P.No.1111 of 2017 on the file of the Motor Accident Claims Tribunal, Special Sub Judge, Tiruvannamalai.

For Appellant : Ms.M.Malar

For Respondent : Mr.S.S.Santhosa Kumar

JUDGMENT

The appellant herein is the claimant who seeks enhancement of compensation for the injury she has suffered while she was traveling as a passenger in a bus bearing Regn.No.TN 21 N 0796 belonging to the respondent Corporation.



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2.The accident had taken place on 02.12.2016. Seeking compensation, the victim had preferred M.C.O.P.No.1111 of 2017 before the Motor Accident Claims Tribunal, Special Sub Judge, Tiruvannamalai. During enquiry, the victim appeared before the Medical Board and in terms of Ex.C1, the report of the Medical Board, the victim has suffered 50% permanent disability. The Tribunal, in all, had passed an award of Rs.4,01,000/-, and the major component of this compensation is the compensation of Rs.2,50,000/- awarded under the head 'disability'. The details of the award is as below:

<i>Sl.No.</i>	<i>Heads</i>	<i>Amount awarded by the Tribunal</i>
1.	Disability (50%)	Rs.2,50,000/-
2.	Pain and sufferings	Rs.50,000/-
3.	Extra nourishment	Rs.20,000/-
4.	Attender charges	Rs.20,000/-
5.	Loss of amenities	Rs.25,000/-
6.	Transport charges	Rs.10,000/-
7.	Loss of income during the treatment period	Rs.26,000/-
	Total	Rs.4,01,000/-

3.Aggrieved by the perceived inadequacy of compensation awarded by the Tribunal, the claimant has now moved this Court with this appeal.



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4.Ms.M.Malar, learned counsel for the appellant submitted that the victim was 65 years old at the relevant time and had suffered fracture to her left femur, and given the age factor, she hardly could not manage her affairs. Besides, she was also eking her livelihood as a Cooli, and the Tribunal, in fitness of things, ought to have treated the disability of the victim as functional disability. She also added that the compensation paid on other heads also requires a revisit.

5.Mr.S.S.Santhosa Kumar, learned counsel appearing for the respondent forcefully contended that the victim was 65 years old, that given the fact, she is able to manage her affairs and her disability shall not be treated as functional disability.

6.There is a tendency in this jurisprudence to treat senior citizens as almost invalid citizens not worthy of just compensation. There is almost a presumption made that anybody who is above 65 years are incapable of making income or entitled to decent living. The injury may be same, but the age factor makes a huge difference the consequences which an injury may produce. This needs to be addressed. Here is a situation, a 65 years old women had suffered a road accident and the issue is, can she live the



quality of life that was prior to the accident. After all, the consequence that visited the victim of the accident is not of her making. The whole attempt is to ensure that the victim is atleast compensated to the extent to balance the inconvenience that has resulted from the injuries that she had suffered in the accident.

5.Now, considering the case of the claimant on this plane, this Court considers to treat her entire disability as functional disability. The notional income of the victim is fixed at Rs.10,000/-, applying a multiplier of 7 and reducing it by 50%, the net value of functional disability is Rs.4,20,000/-. The amounts awarded by the Tribunal on other conventional heads, except loss of income, are confirmed. The breakup is as below:

Sl. No.	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Disability (50%)	Rs.2,50,000/-	Rs.4,20,000/-	enhanced
2.	Pain and sufferings	Rs.50,000/-	Rs.50,000/-	confirmed
3.	Extra nourishment	Rs.20,000/-	Rs.20,000/-	confirmed



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4.	Attender charges	Rs.20,000/-	Rs.20,000/-	confirmed
5.	Loss of amenities	Rs.25,000/-	Rs.25,000/-	confirmed
6.	Transport charges	Rs.10,000/-	Rs.10,000/-	confirmed
7.	Loss of income during the treatment period	Rs.26,000/-	10,000 x 4 = Rs.40,000/-	enhanced
	Grand Total	Rs.4,01,000/-	Rs.5,85,000/-	Enhanced by Rs.1,84,000/-

6.This Civil Miscellaneous Petition stands partly allowed, and the award of the Tribunal is enhanced from **Rs.4,01,000/-** to **Rs.5,85,000/-**. The learned counsel for the respondent informed the Court that the respondent had deposited the compensation amount payable as per the award of the Tribunal. Therefore, the respondent is now required to deposit the differential sum along with 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 ten (10) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant is permitted to withdraw the award amount, along with proportionate interest and costs as awarded by



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N.SESHASAYEE, J.

Anu

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 claimants. No Costs.

20.11.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

1.The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Tiruvannamalai Region.

2.The Motor Accident Claims Tribunal,
Special Sub Judge, Tiruvannamalai.

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