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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.290 of 2023

A.Malathi

..Appellant

.VS.

The Managing Director
Metropolitan Transport Corporation Limited
Pallavan House, Anna Salai
Chennai 600 002.

..Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 28.02.2022 made in M.C.O.P.No.4632 of 2019, on the file of the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai.

For Appellant : Mr.R.Mohan Babu

For Respondent : Mr.M.Murali Vinodh

JUDGMENT

The claimant not being satisfied with the quantum of compensation awarded by the Tribunal in M.C.O.P.No.4632 of 2019, dated 28.02.2022, has filed the present appeal seeking for enhancement of compensation.



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2.The case of the claimant is that on 20.6.2019, she was walking near Aavin Milk Booth at Anna Salai and at about 16.10 hours, the bus belonging to the respondent Corporation was driven in a rash and negligent manner and it hit the claimant and thereafter hit a stationery Auto rickshaw. The claimant sustained Fracture shaft of femur D 1/3rd grade III compound Left leg. The claimant underwent treatment as an inpatient for nearly 30 days from 20.6.2019 to 20.7.2019. The disability suffered by the claimant was assessed at 35% and it was found that the claimant suffered from pain and stiffness in the left leg and knee joint and her movements were restricted and the knee flexion was only ranging from 0 to 30* and whereas the normal flexion is 130*. The knee space was also narrowed and sitting cross legged, squatting, climbing steps became a problem. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the bus who drove the bus belonging to the respondent Corporation.

4.The Tribunal after having rendered the above finding, proceeded to fix the total compensation at Rs.2,84,222/- (rounded off to Rs.2,84,500/-) under various heads as follows:



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Sl.No.	Compensation awarded under the head	Amount (in Rs.)
1.	Disability	1,50,000/-
2.	Medical Expenses	15,222/-
3.	Loss of Income	18,000/-
4.	Pain and suffering	25,000/-
5.	Transportation expenses	10,000/-
6.	Nutrition Expenses	25,000/-
7.	Damages to Clothes	1,000/-
8.	Attender Charges	15,000/-
9.	Loss of amenities	15,000/-
10.	Mental Agony	10,000/-
	Total	2,84,222/-
	Rounded off to	Rs.2,84,500/-

5.The above compensation was directed to be paid with interest at the rate of 7.5.% p.a.

6.The claimant not being satisfied with the quantum of compensation fixed by the Tribunal has filed the present appeal seeking for enhancement of compensation.

7.Heard Mr.R.Mohan Babu, learned counsel for the appellant and Mr.M.Murali Vinodh, learned counsel for the respondent – Transport Corporation.

8.This Court has carefully considered the submissions made on either side



award passed by the Tribunal.

to perform her job as a housemaid.

percentage method. Accordingly, a sum of Rs.5000/- was awarded per percentage.

Rs.7,000/-].



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12. Insofar as 'pain and suffering' is concerned, the Tribunal has granted a sum of Rs.25,000/-. The claimant was taking treatment for nearly 30 days as an inpatient and the disability suffered by the claimant has also been referred supra. Therefore, this Court is inclined to enhance the compensation under the head 'pain and suffering' to Rs.50,000/-.

13. The Tribunal had granted a sum of Rs.18,000/- under the head 'loss of income'. The claimant was a housemaid and considering the nature of injury sustained by the claimant, she would have been out of employment for at least five months. A notional monthly income of Rs.10,000/- can be fixed. Thus, the compensation under the head 'loss of income' can be fixed at Rs.50,000/- [Rs.10,000 * 5 months].

14. This Court is also inclined to increase the compensation under the head 'transportation charges' to Rs.15,000/-.

15. The compensation that has been granted under the other heads are reasonable and does not require the interference of this Court.

16. In the light of the above discussion, the compensation fixed by the Tribunal is modified as follows:



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Sl.No.	Compensation awarded under the head	Amount awarded by the Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1.	Disability	1,50,000/-	2,45,000/-
2.	Medical Expenses	15,222/-	15,222/-
3.	Loss of Income	18,000/-	50,000/-
4.	Pain and suffering	25,000/-	50,000/-
5.	Transportation expenses	10,000/-	15,000/-
6.	Nutrition Expenses	25,000/-	25,000/-
7.	Damages to Clothes	1,000/-	1,000/-
8.	Attender Charges	15,000/-	15,000/-
9.	Loss of amenities	15,000/-	15,000/-
10.	Mental Agony	10,000/-	10,000/-
	Total	2,84,222/-	4,41,222/-
	Rounded off to Total	Rs.2,84,500/-	Rs.4,41,500/-

17. The compensation awarded by the Tribunal at Rs.2,84,500/- is enhanced to Rs.4,41,500/-. The respondent – Transport Corporation is directed to deposit the enhanced compensation, less the amount if already deposited, together with interest @ 7.5% p.a., from the date of claim petition till the date of deposit within a period of six weeks from the date of receipt of this judgment. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant/claimant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.



18. In the result, the Civil Miscellaneous Appeal is partly allowed in the above terms. No costs.

24.06.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
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To

1. The Managing Director
Metropolitan Transport Corporation Limited
Pallavan House, Anna Salai
Chennai 600 002
2. Motor Accident Claims Tribunal
IV Court of Small Causes
Chennai.



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N. ANAND VENKATESH., J

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