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CMA.No.1102 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.1102 of 2024

V.Padma

... Appellant

vs.

The Managing Director,
Tamil Nadu State Transport Corporation (VPM) Limited,
Kanchipuram Region,
Kanchipuram - 631 501.

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 28.02.2023 in M.C.O.P.397 of 2018 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.I, Small Causes Court, Chennai.

For Appellant : Mr.K.Balaji

For Respondent : Mr.S.Santhosa Kumar

J U D G M E N T

The appellant is the claimant in M.C.O.P.397 of 2018 on the file of the Motor Accident Claims Tribunal, Small Causes Court, Chennai.



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She filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.25,00,000/- for the injuries sustained by her in a road accident that occurred on 17.07.2017.

2. The brief facts of the case of the appellant / claimant in a nutshell is as follows :

On 17.07.2017, the claimant was travelling as a passenger in a bus bearing Registration Number TN-21-N-1301 belonging to the Tamil Nadu State Transport Corporation Limited, which was proceeding towards Perungalathur. When the bus stopped at Erikkarai bus stand, the driver of the bus, without seeing the claimant getting down from the bus moved the bus rashly and negligently, as a result of which, the claimant fell down and sustained injuries.

3. According to the claimant the rash and negligent driving of the driver of the bus was the cause of accident and therefore, they are liable to pay compensation to her.



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4. The respondent, the Tamil Nadu State Transport Corporation Limited, Kancheepuram, contested the claim petition by filing its counter.

5. The Tribunal, vide its orders dated 28.02.2023, fastened negligence on the part of the driver of the bus and awarded compensation of Rs.7,46,800/- to the claimant together with interest at the rate of 7.5% per annum from the date of claim petition till the date of realisation.

6. Aggrieved over the quantum of compensation awarded by the Tribunal, the appellant / claimant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

7. Heard Mr.K.Balaji, learned counsel appearing for the appellant and Mr.S.Santhosa Kumar, learned counsel appearing for the respondent.

8. Mr.K.Balaji, learned counsel appearing for the appellant contended that the compensation awarded by the Tribunal is not



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commensurate with the injuries sustained by the claimant. He therefore, prayed for enhancement of compensation.

9. Per contra Mr.S.Santhosa Kumar, learned counsel appearing for the respondent contended that the Award passed by the Tribunal is based on the well laid principles of law which were in vogue at the time of passing of the order and therefore, the same need not be disturbed at this stage.

10. A perusal of the discharge summary (Ex.P7) shows that the claimant had sustained "Grade III B fracture of both bones on left leg with Grade III B 3rd MT fracture with calcaneocuboid". She was also admitted as an in-patient from 17.07.2017 to 07.08.2017 at Parvathy Hospital, Chennai. The Medical Board attached to Kilpauk Medical College Hospital, Chennai, has assessed the partial permanent disability of the claimant as 45%. The Tribunal has awarded Rs.5,000/- per percentage of disability since there was no functional disability. The age of the claimant was 58 years on the date of accident and the accident took place in the year 2017. Considering the same, awarding Rs.8,000/- per percentage



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would meet the ends of justice. Therefore, a sum of Rs.3,60,000/- ($8,000 \times 45 = 3,60,000$) is awarded towards partial permanent disability.

10.1. According to the claimant, she was working as a checker in M/s.Ishwarya Export Garments, Chennai earning a sum of Rs.15,000/- per month. However, she did not adduce any documentary evidence to show her actual income. In the absence of satisfactory income proof, the Tribunal fixed the notional monthly income of the claimant as Rs.10,500/, which is perfectly in order. On account of the accident, the claimant would have been out of action atleast for six months. Hence a sum of Rs.63,000/- ($\text{Rs.}10,500/- \times 6$) is awarded towards loss of earnings.

10.2. The following tabular column would show the amount awarded by the Tribunal and the enhanced amount awarded by this Court under various heads.

Sl. No	Heads	Amount (in Rs.) awarded by the Tribunal	Amount (in Rs.) awarded by the High Court
1.	Partial permanent disability	2,25,000	3,60,000
2.	Pain and sufferings	30,000	1,00,000



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3.	Transportation expenses	4,000	10,000
4.	Medical expenses	4,20,447	4,20,447
5.	Extra nourishment	10,000	25,000
6.	Attender charges	6,300	10,000
7.	Loss of earnings	21,000	63,000 (Rs.10,500/- x 6)
8.	Loss of amenities	30,000	30,000
	Total	Rs.7,46,747/- rounded off to Rs.7,46,800/-	Rs.10,18,447/-

11. Thus, the compensation awarded by the Tribunal is enhanced to Rs.10,18,447/- which would carry interest at the rate of 7.5% per annum.

12. In the result,

- The Civil Miscellaneous Appeal is partly allowed. No costs.
- The compensation awarded by the Tribunal is enhanced to Rs.10,18,447/-.
- The appellant / claimant is directed to pay the Court fee for the enhanced compensation amount, if any, within a period of four



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weeks from the date of this order and the Registry is directed to draft the decree only after receipt of the Court fee.

- iv. The respondent, the Tamil Nadu State Transport Corporation Limited, Kancheepuram, is directed to deposit the enhanced compensation amount i.e., Rs.10,18,447/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.397 of 2018 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.I, Small Causes Court, Chennai, within a period of four weeks from the date of receipt of a copy of this order / uploading of this order.
- v. On such deposit being made, the appellant / claimant is at liberty to withdraw the same after following due process of law.
- vi. The appellant / claimant is not entitled to claim interest for the period of delay of 159 days in filing this appeal.

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Index : Yes/No
Speaking/Non-speaking order
mtl



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To

1. The Motor Accident Claims Tribunal,
Special Sub Court No.I,
Small Causes Court, Chennai.

2.The Managing Director,
Tamil Nadu State Transport Corporation (VPM) Limited,
Kanchipuram Region,
Kanchipuram - 631 501.

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



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R.HEMALATHA, J.

mtl

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