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C.M.A.No.1789 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2024

CORAM :

The Hon'ble Mr. Justice Krishnan Ramasamy

C.M.A.No.1789 of 2022

Meenakshi

... Appellant

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Madurai Ltd.,
Bye Pass Road, Madurai 625 010.

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the Judgment and Decree dated 15.11.2016 and made in M.A.C.T.O.P.No.3422 of 2013 on the file of the Motor Accident Claims Tribunal, IV Judge Court of Small Causes, Chennai.

For Appellant : Mr.F.Terry Chella Raja

For Respondent : Mr.A.Vinothraj

JUDGEMENT

This Civil Miscellaneous Appeal has been filed, challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal, IV Judge Court of Small Causes, Chennai in M.C.O.P.No.3422 of 2013, dated 15.11.2016.



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2. On 26.03.2013 at about 13.45 hours, while the appellant/injured was standing and enquiring the bus route in the third platform of Vilangudi bus stand, at that time, a bus bearing Reg.No.Tn-58-N-0738, which driven by its driver in a rash and negligent manner and dashed against the appellant/injured. Due to that accident, the appellant sustained grievous injuries all over her body. Hence, the appellant/petitioner made a Claim Petition seeking a sum of Rs. 6,00,000/- as compensation.

3. On consideration of oral and documentary evidence, the Tribunal has awarded a sum of Rs.1,40,901/- towards compensation to the appellants. Being not satisfied with the same, the appellant has filed the present appeal.

4. The learned counsel for the appellant would submit that, due to the accident, the appellant had suffered left hand below knee fracture, left shoulder contusion, left thigh contusion and other multiple grievous injuries all over her body. On considering the nature of injuries sustained by the appellant, the Medical Board examined the claimant and fixed permanent disability at 40%. The main grievance of the appellant is that, instead of applying multiplier method, the Tribunal has taken only 20% of disability and fixed Rs.3,000/- per percentage and arrived a sum of Rs.60,000/- towards disability, which is on the



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lower side and the same may be modified by this Court. Further, he contended that, when the Tribunal has decided to award the compensation based on the percentage method, the Tribunal ought to have taken the entire 40% of disability and would have awarded the compensation accordingly. Further, he fairly admitted that the amount awarded under other heads are just and reasonable, and the same may be confirmed by this Court. Accordingly, he prayed for appropriate enhancement in favour of the appellant.

5. The learned counsel appearing for the respondent/Transport Corporation, though initially was reluctant on the submission made by the learned counsel for the appellant, however subsequently he submitted that any just and fair compensation may be awarded by this Court.

6. Heard the learned counsel for the appellant and the learned counsel for the respondent and perused the materials available on record.

7. On a perusal of Ex.P10 disability certificate issued by Pw2, it is clear that the disability was fixed at 40%. Therefore, as rightly submitted by the learned counsel for the appellant, the Tribunal ought to have taken the entire percentage of disability assessed by PW2 and accordingly, the Tribunal ought to



adopted multiplier method for entire percentage of disability at 40%. However, in the present case, the Tribunal has taken only 20% of disability and awarded a sum of Rs.3,000/- per percentage, which appears to be low, and therefore, this Court is inclined to take entire 40% of disability assessed by PW2 by taking a sum of Rs.3,000/- per percentage and loss of income due to disability would be reassessed at a percentage basis i.e., $40\% \times \text{Rs.}3,000/- = \text{Rs.}1,20,000/-$. Therefore, the amount under the head of “loss of earning due to disability” is enhanced from Rs.60,000/- to a sum of Rs.1,20,000/-.

8. Insofar as the compensation awarded by the Tribunal under other heads are concerned, this Court finds the same is just and proper and the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as under :-

<i>Heads</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
Loss of earning due to disability	60,000/-	1,20,000/- (enhanced)
Medical expenses	45,101/-	45,101/-
Future medical expenses	2,000/-	2,000/-
Loss of income	6,500/-	6,500/-
Pain and sufferings	20,000/-	20,000/-
Attender charges	800/-	800/-
Transportation charges	2,000/-	2,000/-



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<i>Heads</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
Extra nourishments	2,000/-	2,000/-
Damages to clothes	500/-	500/-
Loss of amenities	2,000/-	2,000/-
Total	1,40,901/-	2,00,901/-
Total (Rounded off)	Rs.1,40,900/-	Rs.2,00,900/-

9. The appeal is partly allowed and the impugned Award of the Tribunal is modified by enhancing the compensation amount from **Rs.1,40,900/-** to **Rs.2,00,900/-**. The respondent/Transport Corporation is directed to deposit the said amount along with 7.5% interest and cost, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.3422 of 2013 on the file of IV Judge Court of Small Causes, Chennai. Upon such deposit being made, the Tribunal is directed to transfer the entire amount to the bank account of the claimant, by way of RTGS, within a period of three weeks from the deposit or from the date of receipt of the Bank details obtained from the claimant or application for withdrawal from the claimant, whichever is later. The appellant/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



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Court fee has been produced by the claimant. It is made clear that the claimant is not entitled for any interest with regard to enhanced amount of compensation.

No costs.

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Index : Yes / No
NCC : Yes / No
jd

To

1. The Motor Accident Claims Tribunal,
IV Judge Court of Small Causes, Chennai.
2. The Section Officer,
V.R. Section,
High Court, Madras.

Krishnan Ramasamy,J.,



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