



C.M.A.No.3396 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.3396 of 2024

K.Divya

... Appellant/Petitioner

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 to set aside the Judgment and Decree dated 24.01.2020 passed in M.C.O.P.No.5889 of 2016 by the Motor Accident Claims Tribunal Chennai, (in the Principal Special Judge, Special Court under E.C. & NDPS Act, Chennai – 104) and enhance the award amount in the interest of justice.

For Appellant : Mr.F.Terry Chellaraja for
M.Pachaiyappan

For Respondent : M/s.Anton Dhanasekaran



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JUDGMENT

The above appeal is filed by the petitioner/claimant seeking to set aside the Judgment and Decree dated 24.01.2020 passed in M.C.O.P.No.5889 of 2016 by the Motor Accident Claims Tribunal Chennai, (in the Principal Special Judge, Special Court under E.C. & NDPS Act, Chennai – 104).

2. It is the case of the appellant that, on 11.08.2016 at 6.00 hrs. when the appellant was travelling as a passenger in the MTC bus bearing registration number TN 01 N 8615, at that time the driver of the bus had driven the vehicle in a rash and negligent manner and suddenly applied sudden brake, thereby, the appellant fell inside the bus sustaining grievous injuries. Therefore, the appellant had filed a claim petition claiming a sum of Rs.20,00,000/- for the injuries sustained by her in the said accident.

3. Before the Tribunal, the appellant had examined herself as P.W.1 and examined the doctor as P.W.2 and marked 12 documents viz.,



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Ex.P.1 to Ex.P.12. On the side of the respondents, they have examined R.W.1 and marked Ex.R1. After adjudication, the Tribunal awarded a sum of Rs.87,770/- as compensation to the appellant. Not satisfied with the same, the appellant has preferred the present appeal seeking enhancement.

4. The learned counsel appearing for the appellant submitted that, though the accident is of the year 2016, and the independent Doctor assessed the disability at 25%, however, the Tribunal has fixed the disability only at 10% and has fixed the notional income at Rs.3,000/- under awarded a sum of Rs.30,000/- under the head compensation towards partial loss of income which is on the lower side and the same requires interference. He further submits that the other heads awarded by the Tribunal are also on the lower side and the same requires to be re-considered by this Court. Accordingly, he prays for appropriate enhancement in favour of the appellant.

5. The learned counsel appearing for the respondent/Transport Corporation submitted that, after taking into consideration the injury



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suffered by the claimant, the Tribunal has rightly awarded the compensation of Rs.87,770/-, which does not require any enhancement. Further, he submits that the other heads awarded by the Tribunal below is just and reasonable for the injuries sustained by the claimant. Accordingly, he prays for dismissal of the appeal.

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

7. The factum and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The only grievance of the appellant/claimant is with regard to the quantum of compensation awarded. Though the Doctor assessed the disability of the appellant at 25%, however, the percentage of disability varies from Doctor to Doctor. Hence, this Court is inclined to fix the disability of the appellant at 20% . Though the appellant is a cook and she claims that she is not earning less than a sum of Rs.10,000/- per month, however, there is no proof to show his income. In the absence of proof of income,



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considering the nature of injuries suffered by the appellant, this Court is inclined to fix a sum of Rs.5,000/- at the rate of per percentage of disability. Therefore, the amount under the head “loss of earning power” is fixed to a sum of Rs.1,00,000/- ($20 \times \text{Rs.5,000/-} = \text{Rs.1,00,000/-}$).

8. Further, this Court awards a sum of Rs.30,000/- is awarded under the head compensation towards partial loss of income, which is on the higher side and the same is reduced to a sum of Rs.10,000/-; no amount has been awarded under the head nutrition, hence a sum of Rs.20,000/- is granted; no amount is granted under the head attender charges, hence a sum of Rs.10,000/- is granted; Since transportation expenses and nutrition expenses have already been granted, a sum of Rs.3,000/- granted under the head “to and fro hospital, attenders help, consumption of nutritious food and other miscellaneous expenses” does not arise. A sum of Rs.10,000/- has been granted under the head pain and suffering which is on the lower side and the same is enhanced to a sum of Rs.40,000/-; the award under the head medical expenses is just and reasonable, which does not require any interference; the compensation awarded under the head loss of amenities, no compensation can be



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awarded under such heads as the said heads is not conventional head, which does not attract any compensation.

9. In view of the above, this Court is inclined to pass the following award:-

<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	Compensation towards partial loss of income	30,000/-	10,000/- (reduced)
2	Loss of earning capacity	30,000/-	1,00,000/- (enhanced)
3	Nutrition	-	20,000/- (awarded)
4	Attender charges	-	10,000/- (awarded)
3	Medical bills	4,766/-	4,766/-
4	To and fro hospital, attenders help, consumption of nutritious food and other miscellaneous expenses	3,000/-	-
5	Pain and suffering	10,000/-	40,000/- (enhanced)
6	Loss of Amenities	10,000/-	-
	Total	87,770/-	1,84,766/-

10. Accordingly, this appeal is partly allowed and the



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compensation amount by the Tribunal is enhanced from **Rs.87,770/-** to **Rs.1,84,766/-** and the respondent/Transport Corporation is directed to deposit the compensation amount, awarded by this Court above, to the credit of M.C.O.P.No.5889 of 2016 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 six weeks (6) 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 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
Netrual Citation Case : Yes / No
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To

- 1.Motor Accident Claims Tribunal Chennai, (in the Principal Special Judge, Special Court under E.C. & NDPS Act, Chennai – 104)
- 2.The Section Officer, V.R.Section, High Court, Madras.



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M.DHANDAPANI, J.

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