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CMA.No.2876 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 03.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.2876 of 2021

Meena

... Appellant

Vs.

Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
rep. by its Managing Director,
Pudhiya Pugaivandi Salai,
Kumbakonam City and Town.

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 against the decree and judgment dated 03.08.2015 made in MCOP No.205 of 2013 on the file of Principal Subordinate Judge, Motor Accident Claims Tribunal, Mayiladuthurai.

For appellant : Mr.K.Varadhakamaraj

For Respondent : Mr. M.Murali Vinoth



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JUDGMENT

Aggrieved by the quantum of compensation granted by the Motor Accident Tribunal, the claimant has come before this court seeking enhancement of compensation.

2. It is not in dispute that the claimant suffered injury due to motor accident that had taken place on 15.04.2013. No arguments have been advanced on the ground of negligence and liability, as the appeal is confined to the quantum. Therefore, the facts necessary for arriving at findings on the question of negligence and liability have not been discussed.

3. The accident had taken place on 15.04.2013, as a result of the same, the appellant suffered fracture in her ribs and her spleen was removed due to the injuries suffered in that accident. The PW2, Doctor has given disability certificate fixing disability at the rate of 37%. Based on the evidence available on record, the Tribunal fixed compensation at Rs.3,20,989/-. Not satisfied with the same, the claimant has filed the present appeal.

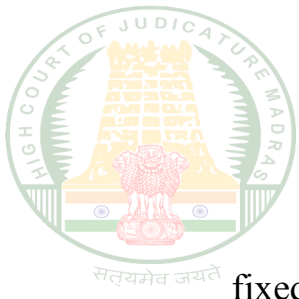


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4. The learned counsel for the appellant vehemently contended that the spleen of the appellant was removed due to the accident and the same will result in substantial future medical expenses to be spent by the appellant. Therefore, it is submitted by him that the compensation awarded at Rs.2,00,000/- for removal of spleen is on lower side. The learned counsel for the appellant further submitted that the Doctor issued disability certificate, assessing disability of the claimant at 12%. The Tribunal, by granting Rs.2,000/- per percentage, has awarded only Rs.24,000/- (12x2000) for the disability suffered by the appellant due to the fracture in her ribs and the same required enhancement. The learned counsel also advanced his arguments for enhancement of compensation awarded by the Tribunal under various conventional heads.

5. The learned counsel for the respondents submitted that by taking into consideration the inconvenience caused to the appellant and the future medical expenses, the Tribunal fixed the compensation for removal of spleen at Rs.2,00,000/- and the same required no interference by this court. He further submitted that all the amounts



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fixed by the Tribunal in various conventional heads are reasonable and therefore, the claimant/appellant is not entitled for any enhancement.

6. The Tribunal, by relying upon the judgment of the ***Hon'ble Punjab High Court, reported in 1984 ACJ 316***, observed that in the year 1984, for removal of spleen, a sum of Rs.20,000/- was granted and taking into consideration the accident had taken place in the year 2013, came to the conclusion that the claimant is entitled for a lump sum of Rs.2,00,000/- towards partial permanent disability suffered by the claimant/ appellant, due to the removal spleen.

7. The learned counsel for the appellant, by relying upon the decision of the ***Division Bench of this Court in New India Assurance Co. Ltd. Vs. Saraswathi and others (CMA Nos.2560 to 2567 of 2015) reported in 2018 SCC Online Mad. 6324*** submitted that for removal of spleen, the appellant is entitled to the enhanced compensation, taking into consideration the future medical expenses.



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8. The Pw2, Dr.Rajendran, in his evidence, has not stated anything regarding the future medical expenses and administration of medicines, due to the removal of spleen. In such circumstances, the amount of Rs.2,00,000/-, awarded by the Tribunal towards partial permanent disability for removal of spleen is just and reasonable and the same is confirmed.

9. The accident had taken place in the year 2013. For the disability suffered by the claimant towards the fracture in her ribs, the Tribunal fixed a sum of Rs.2,000/- per percentage and awarded a sum of Rs.24,000/- towards partial permanent disability. Taking into consideration the year of accident, the said amount of Rs.24,000/- is enhanced to Rs.36,000/- (12 x 3,000)

10. Since the appellant suffered removal of vital organ, namely spleen, she is entitled to some more enhancement under the head 'pain and sufferings' and accordingly it is enhanced from Rs.10,000/- to Rs.25,000/-.



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11. The Tribunal has not granted any amount under the head 'Loss of amenities'. The appellant suffered a rib fracture and loss of spleen. Therefore, she cannot lead her normal life, as before and hence, she is entitled to Rs.10,000/- under the head 'loss of amenities'.

12. Accordingly, the compensation awarded by the Tribunal is modified as follows:

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Spleen	2,00,000	2,00,000	confirmed
2.	Partial permanent disability	24,000	36,000	enhanced
3.	Transportation	4,000	10,000	enhanced
4.	Attender charges	1,000	10,000	enhanced
5.	Pain and sufferings	10,000	25,000	enhanced
6.	Nutrition	2,000	10,000	enhanced
7.	Medical bills	79,989	79,989	confirmed
8.	Loss of amenities	-	10,000	granted
	Total	3,20,989	3,80,989	enhanced by 60,000



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13. With the above modifications, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.3,20,989/- is hereby enhanced to **Rs.3,80,989/-** together with interest at 7.5% per annum (excluding the default period, if any) from the date of petition till the date of deposit.

14. The respondent is directed to deposit the compensation amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant/claimant shall be permitted to withdraw the compensation amount along with interest and costs, less the amount if any, already withdrawn after making formal application before the Tribunal. No costs.

03.02.2025

Index:Yes/No
Internet:Yes/No
mst



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To

1. The Principal Subordinate Judge,
Motor Accident Claims Tribunal,
Mayiladuthurai.
2. Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
rep. by its Managing Director,
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S.SOUNTHAR, J.

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