

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 1101 of 2015

&

M.P. No. 1 of 2015

The Managing Director,  
Tamil Nadu State Transport  
Corporation (Villupuram) Limited,  
No. 3/137, Salamedu,  
Vazhuthareddy,  
Villupuram - 605 602. ..Appellant

Vs.

Selvakumar ...Respondent

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 11.02.2014 passed in M.C.O.P. No. 1591 of 2011 on the file of Motor Accidents Claims Tribunal (IV Small Causes Court), Chennai.

For Appellant :: Mr.K.J. Sivakumar

For Respondent :: Mr.K. Varadhakamaraj

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the Transport Corporation as against the award of Rs. 9,96,400/- passed by the Motor Accidents Claims Tribunal (IV Court of Small Causes), Chennai, in favour of the respondent herein, for the injuries sustained by him, in the accident, which occurred on 10.04.2011.

2. Heard Mr.K.J. Sivakumar, learned counsel for the appellant and Mr.K. Varadakamaraj, learned counsel for the respondent.

3. The only issue in question is the quantum of compensation granted by the Tribunal.

4. The injured is a 27 year old Mason, alleged to be earning about Rs.15,000/- per month. He sustained Grade III B Compound fracture shaft of humerus left, radial injury raw area left

arm and fracture of 2 to 8 left ribs. He was treated as an in-patient in Government General Hospital, Chennai, for 2 days on 10.04.2011 and 11.04.2011, during which period, he underwent surgery and wound debridement, elbow spanning exfix and split skin grafting were done. Thereafter, he was again treated as an in-patient in the very same hospital from 12.08.2011 to 20.09.2011 and underwent surgery ORIF with NDCP and bone grafting was done. Taking into consideration, the nature of injuries suffered by the claimant, the disablement of his left hand, wrist drop of the left upper limb and malunion of fractured ribs on the left side, P.W.2, Doctor, who examined the victim, assessed the disability at 70%. However, the Tribunal, while observing that though there is a disfunction and disablement of the left hand of the claimant in toto, rightly, found that the claimant was not totally incapacitated from doing any work and fixed the disablement of earning capacity at 65%. The said determination cannot be found fault with.

5. Though the claimant claimed that he was earning a sum of Rs.15,000/- per month, by producing Ex-P6, Identity Card and by examining P.W.3, the Tribunal did not rely upon the said document and evidence, but fixed Rs.6000/- as the monthly income of the claimant, in the absence of any reliable and material evidence regarding the income of the claimant. The said determination is in consonance with the judgment of the Honourable Apex Court in Syed Sadiq V. Divisional Manager, United India Insurance Co. Ltd reported in 2014 (1) TN MAC 459 (SC) and calls for no interference.

6. Taking into consideration, the age of the claimant, namely, 27 years and following II Schedule to the Motor Vehicles Act, 1988, the Tribunal, rightly adopted multiplier 18 and calculated "Loss of Income due to disability" as follows:

Loss of Income due to disability :: Rs.6000 x 12 x 18 x 65%  
:: Rs.8,42,400/-

As far as the other amounts are concerned, though the sum of Rs.15,000/- awarded towards "Extra Nourishment" and the sum of Rs.10,000/- awarded towards "Transport to Hospital" are low, this Court is not inclined to enhance the same, in view of the overall award passed by the Tribunal, to the tune of Rs.9,96,400/- and the said amounts are confirmed. Likewise, the sum of Rs.10,000/- towards "Medical Expenses"; the sum of Rs.10,000/- towards "Loss of Amenities"; Rs.10,000/- awarded towards "Loss of Social Status"; Rs.40,000/- awarded under the head "Pain and Suffering" and Rs.54,000/- awarded towards "Loss of Earning" for 9 months are all reasonable and are, therefore, confirmed. Hence, the compensation of Rs.9,96,400/- awarded by the Tribunal is sustained as it is just and reasonable. The rate of interest awarded by the Tribunal @ 7.5% per annum remains intact.

7. The appellant Transport Corporation is directed to deposit the entire award amount, with accrued interest and costs, after deducting the amount already deposited, if any, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this order failing which the Chairman cum Managing Director and Financial Advisor cum Chief Accounts Officer shall appear before this Court on 24<sup>th</sup> July, 2015. On such deposit being made, the respondent/claimant is permitted to withdraw the same within a period of one week thereafter.

8. In the result, the Civil Miscellaneous Appeal is dismissed confirming the award passed by the Tribunal. No costs. Connected M.P. Is closed.

9. Post the matter for reporting compliance on 24.07.2015.

Sd/-  
Asst.Registrar (CS III )

/true copy/

Sub Asst. Registrar

nv

To

1. The MACT (IV Judge, SCC), Chennai.
2. The Managing Director and Financial Advisor cum Chief Accounts Officer  
Tamil Nadu State Transport  
Corporation (Villupuram) Limited,  
Villupuram - 605 602.

1 cc to M/s. K.J. Sivakumar, Advocate, SR. 28585  
1 cc to M/s. Varadhakamaraj, Advocate, Sr. 28778

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PPA (CO)  
Eu 08.07.15

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