

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE V.RAMASUBRAMANIAN
and
THE HONOURABLE MR.JUSTICE T.MATHIVANAN

C.M.A.No.1113 of 2015
and M.P.No.1 of 2015

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

...Respondent/Appellant

-Vs-

S.Saravanan

..Petitioner/Respondent

C.M.A., filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 02.04.2014 made in M.C.O.P.No.1462 of 2011 on the file of the Motor Accident Claims Tribunal, 1st Additional Subordinate Court at Cuddalore.

For appellant : Mr.K.J.Sivakumar
For respondent : Mr.R.Sreedhar

JUDGMENT

(Judgment of the Court was delivered by V.RAMASUBRAMANIAN, J.)

This appeal is by the State Transport Corporation questioning the correctness of Award passed by the Motor Accident Claims Tribunal.

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

3. In a road traffic accident that occurred on 24.01.2011, the respondent herein sustained head injury. After recovery, he made a claim in M.C.O.P.No.1462 of 2011 on the file of the Motor Accident Claims Tribunal.

4. By an Award dated 02.04.2014, the Tribunal fixed the compensation payable at Rs.34,52,180/-. Aggrieved by the said Award, the Transport Corporation is on appeal.

5. The focus of the appellant in this appeal is primarily with regard to the quantum of compensation and not with regard to the liability. The age of the respondent was actually 23 years and there was no dispute about the same. As a matter of fact, the respondent has produced a certificate to show that he has completed B.E., Degree course. It is marked as Ex.P.18. Therefore, the age of the respondent was correctly taken as 23.

6. The respondent suffered head injury and Ex.P.2-Discharge Summary indicated the nature of the injury as follows:-

"Diastatic fracture of right lambdoid suture and Large Right Parietooccipital Extradural Hematoma causing subfalcine, uncus and Transtentorial Herniation with Brain stem compression; Left Temporal Lobe contusion; vertical Fracture of right temporal Bone; Ventilator Dependent Respiratory Distress."

7. The respondent had taken treatment in two hospitals viz., MIOT Hospital and Vijaya Hospital. Ex.P.8 is the series of Advance Bills raised by MIOT Hospital to the tune of Rs.4,71,112/-. However, MIOT Hospital raised a final bill as Ex.P.36 to the extent of Rs.6,26,342/-. Vijaya Hospital raised bills to the total tune of Rs.5,03,944/- as evidenced by Ex.P.29. The Bills for Physiotherapy were marked as Ex.P.30 series to the total extent of Rs.85,750/-.

8. It was contended originally by Mr.K.J.Sivakumar, learned counsel for the appellant that the Tribunal has taken into account both the advance bill as well as the final bill.

9. We perused Exs.P.28, P.29, P.30 and P.36. We find that there is no duplication. The amount claimed in Ex.P.28 has been adjusted as against the claim made in Ex.P.36. Therefore, the Award of Rs.10,60,810/- towards expenses for medical treatment, is borne out clearly by record.

10. The respondent was employed as an Engineer in a leading Information Technology Company viz., WIPRO Limited. As per Ex.P.22, his salary was Rs.17,945/-. Since he is a Bachelor, 1/3rd of the salary was deducted towards personal expenses and the Tribunal took only Rs.11,963/-. Thereafter, the Tribunal applied the multiplier of 18 and the disability at 75%. These are actually in accordance with the well settled principles.

11. The Tribunal also awarded Rs.10,000/- for Transportation; Rs.10,000/- for Extra Nourishment; Rs.2000/- for Damage to clothing

and article and Rs.50,000/- towards Charges for the Attendant. The Award in respect of these amounts cannot also be said to be on the higher side.

12. Considering the fact that the respondent was aged 23 years, employed in a leading Information Technology Industry and also considering the fact that the respondent was actually a passenger in the bus of the Transport Corporation and he sustained injuries when he was thrown out of the bus due to sudden application of the brake, we are of the view that the compensation awarded is just and proper. Hence, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected MP is closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

nvsri

To

The Motor Accident Claims Tribunal,
1st Additional Subordinate Court, Cuddalore.

1 cc to Mr. K.J.Sivakumar, Advocate Sr.No.32513

1 cc to Mr..R.Sreedhar , Advocate Sr.No.32699

C.M.A.No.1113 of 2015

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