

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.06.2015

Coram:

The Hon'ble Mr. Justice N.KIRUBAKARAN

C.M.A.No.1159 of 2015
and M.P.No.1 of 2015

Metropolitan Transport Corporation Ltd.,
Rep.by its Managing Director
Pallavan Illam, Anna Salai,
Chennai .

.. Appellant / Respondent

Vs

K.Unnamalai

.. Respondent / Petitioner

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act against judgment and decree made in MCOP No.2976 of 2012 dated 02.09.2014 on the file of the Motor Accident Claims Tribunal, (V Court of Small Causes), Chennai.

For Appellant : Mr.S.Sivakumar

For Respondent : Mr.K.Malaikannu

J U D G M E N T

The appeal has been preferred by the appellant/transport corporation aggrieved over the quantum of compensation of Rs.3,47,000/- awarded by the tribunal for the injuries sustained by the respondent/claimant in the accident occurred on 08.20.2011.

2. Heard Mr.S.Sivakumar, learned counsel appearing for the appellant and Mr.K.Malaikannu, learned counsel appearing for the respondent/claimant.

3. It is seen that the claimant sustained fracture of right femur namely intertrochanteric fracture boyd & griffith type II and she was treated as inpatient from 08.10.2011 to 23.11.2011 conservatively. The tribunal, based on PW2 - doctor's evidence, determined the disability at 40% even though the doctor spoke about 45%. In any event, determination of 40% disability and awarding of Rs.80,000/- by the tribunal is confirmed.

4. Even though a sum of Rs.80,000/- was awarded towards disability, the tribunal has awarded a sum of Rs.97,500/- towards loss of earning capacity by taking into consideration Rs.6500/- as

monthly income and adopting multiplier 5 and considering 25% disability. Application of multiplier method for this case is unwarranted especially when the claimant was treated conservatively and she was already given Rs.80,000/- towards disability. Therefore, the amount of Rs.97,500/- awarded towards loss of earning capacity by applying multiplier method is deleted. Though the respondent/claimant was in the hospital for 43 days, awarding of Rs.39,000/- towards loss of income is on the higher side and the same is reduced to Rs.30,000/-. Similarly, Rs.50,000/- awarded towards extra nourishment & transportation is reduced to Rs.30,000/-. However, Rs.500/- awarded towards damages to clothes, Rs.5,000/- towards medical expenses and Rs.25,000/- towards loss of amenities are all reasonable and they are confirmed. However, Rs.50,000/- awarded towards pain & sufferings is on the higher side and the same is reduced to Rs.25,000/-. Thus, the award of Rs.3,47,000/- is hereby reduced to Rs.1,95,500/-, rounded off to Rs.2,00,000/- break-up as follows -

For 40% Disability	Rs.	80,000/-
Loss of income for six months	Rs.	30,000/-
Extra nourishment & transportation	Rs.	30,000/-
Damage to clothes	Rs.	500/-
Medical expenses	Rs.	5,000/-
Loss of amenities	Rs.	25,000/-
Pain & sufferings	Rs.	25,000/-
Total	Rs.	1,95,500/-

Rounded off to Rs.2,00,000/-.

The rate of interest awarded by the tribunal shall remain unaltered.

5. In the result, the Civil Miscellaneous Appeal is partly allowed reducing the compensation from Rs.3,47,000/- to Rs.2,00,000/- alongwith interest @ 7.5% per annum from the date of petition till the date of deposit. No costs. Consequently, connected Miscellaneous Petition is closed.

6. The appellant/Transport Corporation is directed to deposit the entire amount awarded by this Court, alongwith interest and costs, on or before 27.07.2015. On such deposit, the respondent/claimant is permitted to withdraw the amount, alongwith interest and costs. In the event of failure on the part of the appellant/Transport Corporation to deposit the compensation amount on the aforesaid date, the Chairman cum Managing Director, the

Financial Advisor and Chief Accounts Officer shall appear before this Court on that day.

7. Post the matter for compliance on 28.07.2015.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

1.The Motor Accident Claims Tribunal,
V Judge,
Court of Small Causes,
Chennai.

2.The Chairman and Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan Illam, Anna Salai,
Chennai.

3.The Section Officer,
Judicial Department,
High court, Madras.

+1 cc to mr.K.Malaikannu, Advocate,SR.30555

+1 cc to mr.S.Sivakumar, Advocate,SR.31022.

Rv(co)
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C.M.A.No.1159 of 2015

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