

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.07.2015

Coram:

The Hon'ble Mr. Justice N.KIRUBAKARAN

C.M.A.No.1390 of 2015
and M.P.No.1 of 2015

The Managing Director,
Tamil Nadu State Transport Corporation,
(Villupuram Division-II),
Rangapuram, Vellore

.. Appellant / Respondent

vs

Jayammal

.. Respondent / Petitioner

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act against the judgment and decree passed by the Motor Accident Claims Tribunal, Vellore (In the Court of Chief Judicial Magistrate, Vellore) in MCOP No.290 of 2013 dated 12.09.2014.

For Appellant : Mr.P.Paramasivadoss

J U D G M E N T

The appeal has been preferred by the transport corporation against the award of Rs.2,74,500/- as compensation for the injuries sustained by the respondent/claimant in the accident occurred on 12.09.2013.

2. Heard Mr.P.Paramasivadoss, learned counsel appearing for the appellant/transport corporation who would submit that the tribunal, for a 80 years old lady, fixed the monthly income at Rs.4,500/- which is on the higher side. He would further contend that the other amounts awarded by the tribunal are also on the higher side and therefore seeks for reduction of the compensation amount.

3. A close scrutiny of the award would reveal that the claimant suffered Grade III compound crush injury at her left leg. She was hospitalised from 12.09.2013 to 17.10.2013 and her leg was amputated. PW2-doctor, based on medical records, after examining the claimant assessed the total permanent disability at 70% as per Ex.P4. Though the claimant claimed a sum of Rs.7,000/- per month as the monthly earning, the tribunal, very pragmatically determined the same at Rs.4,500/- and therefore, the same cannot be varied. The tribunal, merely adopted 70% disability for calculating the

compensation though the earning power of the claimant is completely lost and therefore the loss of earning should not have been restricted to 70%. Hence, this court, re-determines the loss of earning power at 100%. The tribunal rightly adopted multiplier 5 according to the age of the claimant and the same is confirmed. Thus, the loss of income is determined as follows -

$$\text{Rs.4,500} \times 12 \times 5 = \text{Rs.2,70,000/-}$$

4. Rs.40,000/- awarded towards pain & sufferings is very low considering the age of the claimant, viz 80 years, a sum of Rs.60,000/- is awarded under this head. For loss of amenities, a sum of Rs.10,000/- is awarded and the same is enhanced to Rs.20,000/-. For loss of earning during the treatment period, a sum of Rs.13,500/- is awarded and the same is deleted in view of the determination of loss of income by applying multiplier method. Rs.10,000/- was awarded towards transportation and the same is confirmed. However, Rs.5,000/- awarded towards extra nourishment is too low and the same is enhanced to Rs.20,000/-. Similarly, Rs.5,000/- awarded towards attender charges is enhanced to Rs.10,000/-. However, Rs.2,000/- awarded towards damages to clothes is on the higher side and the same is reduced to Rs.500/-. No amount was awarded towards medical expenses and considering the injury sustained by the respondent/claimant, a sum of Rs.25,000/- is awarded under this head. Thus, the amount of Rs.2,74,500/- awarded by the tribunal is enhanced to Rs.4,05,500/-, rounded off to Rs.4,00,000/-, break-up as follows -

(1) Disability	...	Rs.2,70,000/-
(2) Pain & Sufferings	...	Rs. 60,000/-
(3) Loss of amenities	...	Rs. 20,000/-
(4) Transportation	...	Rs. 10,000/-
(5) Extra nourishment	...	Rs. 20,000/-
(6) Damage to clothes	...	Rs. 500/-
(7) Attender charges	...	Rs. 10,000/-
(8) Medical expenses	...	Rs. 15,000/-

Total सत्यमेव जयते Rs.4,05,500/-

=====

Rounded off to Rs.4,00,000/-

The rate of interest awarded by the tribunal at 7.5% shall remain unaltered.

5. In the result, the Civil Miscellaneous Appeal is dismissed enhancing the compensation from Rs.2,74,500/- to Rs.4,00,000/- even in the absence of any appeal / cross appeal by the respondent/claimant, invoking Order 41 Rule 33, re-appreciating the evidence and applying correct law as on date in a endeavour to award a just compensation.

6. The appellant is directed to deposit the entire amount awarded by this Court, alongwith interest and costs, within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the respondent/claimant is permitted to withdraw the same. In the event of failure on the part of the appellant/Transport Corporation to deposit the entire award amount alongwith interest and costs, on the aforesaid date, the Chairman cum Managing Director, the Financial Advisor and Chief Accounts Officer shall appear before this Court on the said date.

7. Since the appeal has been dismissed at the admission stage itself and the enhancement is being made, the respondent/claimant may not be in a position to know the enhancement of compensation. Therefore, registry is directed to sent a copy of this order directly to the respondent/claimant, free of cost. The Tribunal is directed to collect the requisite court fee for the enhanced compensation from the respondent/claimant, within a period of two weeks from the date of receipt of a copy of the order.

8. Post the matter for compliance after eight weeks.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

rgr

To

1.The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Vellore.

2.The Chairman cum Managing Director,
Financial Advisor and Chief Accounts Officers,
Tamil Nadu State Transport Corporation
(Villupuram Division II)
Rangapuram, Vellore.

1 cc to Mr. P.Paramasiva Doss, Advocate Sr.No.38226

C.M.A.No.1390 of 2015

tej(co)
pmk.3.8.2015