

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED: 27.11.2015

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

C.M.A. No.2319 of 2015 & Cross Objection No.105 of 2015

The Managing Director,
Tamil Nadu State Transport Corporation,
No.3/137, Salamedu,
Vazhuthareddy,
Villupuram.

.. Appellant in CMA No.2319/15
&
respondent in
Cross Obj. No.105/15/Respondent

Vs

S.Balamurugan

.. Respondent in CMA No.2319/15
appellant in Cross Ojb.No.105/15/Claimant

C.M.A.No.2319 of 2015 is filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 10.10.2014 made in M.C.O.P.No.684 of 2011 on the file of Motor Accident Claims Tribunal (Chief Judicial Magistrate Court, Cuddalore District, Cuddalore).

Cross Objection No.105 of 2015 is filed under Order 41 Rule 22 of the Code of Civil Procedure against the judgment and decree dated 10.10.2014 made in M.C.O.P.No.684 of 2011 on the file of Motor Accident Claims Tribunal (Chief Judicial Magistrate Court), Cuddalore District, Cuddalore.

For Appellant in CMA No.2319/2015
& for the Respondent
in Cross Objection No.105/15 : Mr.S.Sairam

For Respondent in CMA No.2319/2015
& Appellant in
Cross Ojb.NO.105/15 : Ms.Ramya V.Rao

COMMON JUDGMENT

C.M.A.No.2319 of 2015 is preferred by the appellant-Transport Corporation against the award dated 10.10.2014 made in M.C.O.P.No.684 of 2011 on the file of Motor Accident Claims Tribunal (Chief Judicial Magistrate Court, Cuddalore District,

Cuddalore).

2. Cross Objection No.105 of 2015 is filed by the claimant against the award dated 10.10.2014 made in M.C.O.P.No.684 of 2011 on the file of Motor Accident Claims Tribunal (Chief Judicial Magistrate Court), Cuddalore District, Cuddalore).

3. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

4. The only point needs adjudication in this appeal and cross objection is whether the yardstick adopted by the learned Tribunal to award a sum of Rs.30,000/- towards permanent disability is correct or needs modification.

5. Admittedly, in the present case, the claimant sustained grievous injuries and multiple fractures all over his body and head, due to the accident that had occurred on 25.01.2011 at 1.30 p.m., while he was riding his moped bearing Registration No.TN-31-S0598 on his extreme right hand side of Kullanchavadi - Panruti Road at Samattikuppam, the respondent vehicle bearing Registration No.TN-32-N-1589 came at a very high speed in a rash and negligent manner and dashed against the claimant riding moped and caused the above said accident. Subsequent to the said accident, he was admitted in a Government Hospital and thereafter, he took treatment for about 8 days in a private hospital, namely, Krishna Hospital, Cuddalore, from 29.01.2011 to 05.02.2011, and still he has been undergoing treatment as outpatient. P.W.1-Doctor deposed that the claimant had suffered grievous injuries all over his body and a plate has also been inserted on his right hand and thereby assessed the disability at 45%. While this being the admitted deposition of the PW1-Doctor, it is not known how the learned Tribunal reduced the disability from 45% to 15%. Therefore, this Court, by considering the fact that the claimant had sustained severe injuries all over his body and also a plate has been inserted on his right arm, is inclined to fix Rs.3000/- per percentage of disability and accordingly, this Court awards a sum of Rs.1,35,000/- (3000x45) towards permanent disability. Except on this head, rest of the award amount granted by the learned Tribunal is just and proper and therefore, the same are not disturbed.

6. In fine, the appellant Transport Corporation is directed to deposit the additional amount of Rs.1,05,000/- apart from the compensation already awarded by the Tribunal, to the credit of M.C.O.P.No.684 of 2011 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate),

Cuddalore, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the entire award amount lying in the said credit on making proper application.

7. Accordingly, with the above modification, Cross Objection filed by the claimant stands allowed. Civil Miscellaneous Appeal filed by the Transport Corporation stands dismissed. No Costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1.The Motor Accident Claims Tribunal (Chief Judicial Magistrate Court) Cuddalore District, Cuddalore.

+1cc to M/S.S.Sairam, Advocate, S.R.No.65293

+1cc to M/S.A.N.Viswanatha Rao, Advocate, S.R.No.65082

C.M.A. No.2319 of 2015 &
Cross Obj. No.105 of 2015

ug(CO)
srg(05/01/2016)

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