

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2015

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THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.2644 of 2015

The Managing Director
Tamil Nadu State Transport
Corporation (Villupuram) Limited
Thiruvannamalai Region
Thiruvannamalai

..Appellant/Respondent

-Vs-

C.Velmurugan

..Respondent/Petitioner

Memorandum of Grounds of Civil Miscellaneous Appeal under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 10.3.2015 made in M.C.O.P.No.909 of 2012 on the file of the Motor Accidents Claims Tribunal, VI Court of Small Causes, Chennai.

For Appellant :: Mr.K.J.Sivakumar

For Respondent :: Mr.K.Varadha Kamaraj

JUDGMENT

This civil miscellaneous appeal is directed against the impugned judgment and decree dated 10.3.2015 passed by the Motor Accidents Claims Tribunal, VI Court of Small Causes, Chennai in M.C.O.P.No.909 of 2012, on the ground that the Tribunal has erred in fixing the future prospects of the claimant at 30%, although the claimant suffered 80% partial permanent disability. Adding further, the learned counsel for the appellant-Transport Corporation submitted that for the simple reason that the doctor gave his opinion for 80% partial permanent disability, the Tribunal has come to the conclusion that this type of disability percentage leads to attack 40% of future earning capacity of the claimant. On this basis the Tribunal, he pleaded, has wrongly held that the claimant is entitled for 30% future prospects towards the loss of earning capacity. Hence, the learned counsel submitted that fixing 30% towards future prospects is untenable and unsustainable and in any event, awarding a sum of Rs.5,99,340/-, almost accepting the claim of Rs.6,00,000/-, is unfair and unjustified.

2. Heard the learned counsel for the respondent also.
<https://hcservices.ecourts.gov.in/hcservices/>

3. But this Court is not able to see any merits in the contentions of the learned counsel for the appellant. The reason is that when the claimant was walking on the left side of the road near Cheyyar bus stand on 15.1.2012 at about 12.30 p.m., the driver of the bus belonging to the appellant-Corporation drove the vehicle in a negligent manner and hit the claimant, as a result he sustained severe injuries. Hence, he was admitted in the Government General Hospital, Chennai and had been treated from 15.1.2012 to 18.3.2012. Immediately after the accident, the police officials also prepared the First Information Report, on the basis of the statement given by the claimant, and the same was marked as Ex.P1 by the Cheyyar Police Station in Crime No.23 of 2012 under Sections 279, 337 IPC against the Government bus driver, who was also examined as P.W.1. On this basis, the Tribunal came to the conclusion that the claimant has proved the facts relating to the negligent driving of the driver of the bus belonging to the appellant-Corporation. Further, when the contents of the FIR were not contradicted by the Corporation and there was no contra evidence against the evidence of P.W.1 which remains unchallenged, the Tribunal held that the accident had occurred due to the rash and negligent driving of the driver of the bus.

4. With regard to the liability for payment of compensation, the Tribunal, considering the evidence of the doctor-Mr.J.R.R.Thiagarajan, who was examined as P.W.2, certifying that 80% partial permanent disability has been suffered by the claimant through the disability certificate-Ex.P4 for fracture of both bones in the right leg, fracture of pubic rami and fracture of both bones on the right forearm, came to the conclusion that the claimant would not be in a position to do his job with full muscle power due to the accident. Accordingly, in the absence of any documentary proof regarding the employment, monthly income and age of the claimant, the Tribunal fixed the monthly income of the claimant at Rs.6,500/- on notional basis and also his age as 42 at the time of the accident. Finally the Tribunal, fixing the disability at 40% and adopting the multiplier of 14 plus awarding 30% towards future prospects, arrived at a sum of Rs.5,67,840/- i.e., $Rs.8,450 \times 12 \times 14 \times 40/100$ under the head of loss of earning capacity. The Tribunal also has awarded a sum of Rs.5,000/- towards medical expenses, Rs.6,500/- towards loss of income for one month, Rs.5,000/- towards transportation, Rs.5,000/- towards extra nourishment, Rs.5,000/- towards attender charges and Rs.5,000/- towards damage to clothes, totalling in all a sum of Rs.5,99,340/- along with interest at the rate of 7.5% per annum as against the claim of Rs.6,00,000/- for the injuries sustained by the claimant. Therefore, this Court is not able to see any error in the impugned award of the Tribunal, as the same is based on proper appreciation of the evidence let in by the parties. Accordingly, the civil miscellaneous appeal fails and it is dismissed. Since only the statutory sum of Rs.25,000/- has been deposited, the appellant-Transport Corporation is directed to deposit the entire balance amount to the credit of

the M.C.O.P.No.909 of 2012 on the file of the Motor Accidents Claims Tribunal, VI Court of Small Causes, Chennai within a period of six weeks from the date of receipt of a copy of this order. On such deposit, it is open to the claimant to withdraw the same by moving appropriate application before the Tribunal. Consequently, M.P.No.1 of 2015 is also dismissed. No costs.

sd/-
Assistant Registrar(Cs-VII)

/TRUE COPY/

Sub-Assistant Registrar

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To

- 1.The Registrar, Court of Small Causes,
Motor Accidents Claims Tribunal-VI
Chennai
2. The Managing Director
Tamil Nadu State Transport
Corporation (Villupuram) Limited
Thiruvannamalai Region
Thiruvannamalai.

+1 CC to MR.K.Varadhakamaraj Advocate. SR.NO.65294

CO-GJ
JD 03/02/2016

C.M.A.No.2644 of 2015

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