

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.12.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. No.2649 of 2015
& M.P.No.1 of 2015

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
having office at Railway Station Road,
Kumbakonam Munsif and Taluk ... Respondent/Appellant

Versus

Seppan @ Rajendiran .. Petitioner/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the judgment and decree dated 21.04.2015 made in M.C.O.P.No.138/2013 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Mannargudi.

For Appellant : Mr.D.Venkatachalam

J U D G M E N T

The Civil Miscellaneous Appeal filed by the appellant/transport Corporation is directed against the correctness of the impugned award dated 21.04.2015 made in M.C.O.P.No.138/2013 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Mannargudi, awarding a sum of Rs.7,90,000/- with 7.5% interest per annum.

2.According to the claimant, on 01.03.2013 at about 06.45 p.m., when he was driving a motor cycle bearing Registration No.TN 34 C 7108 in Melapalayam Main Road, Mannargudi, a bus bearing Registration No.TN 49 N 1771, which came in a rash and negligent manner, dashed against the petitioner and his motor cycle. Due to the accident, the claimant sustained grievous injuries. He was admitted in the Government Hospital, Mannargudi as an inpatient. Subsequently also he had taken treatment. The Doctor has assessed 70% disability i.e. 30% for the partial permanent disability, 10% for the injury on the lower jaw, 10% for the loss of memory power, 10% for not able to do his routine job and 10% for epilepsy.

3.Learned counsel appearing for the appellant/Transport Corporation, assailing the impugned award passed by the Tribunal, contended before this Court that the learned Tribunal ought not to have assessed the permanent disability of the claimant at 70%, which is on the higher side, as the same have to be assessed on the basis of calculation of the whole body and not on the basis of particular limbs of the body. He would further submit that the amount awarded by the Tribunal is excessive, exorbitant and also without any basis and justification and that therefore the award passed by the Tribunal is not in accordance with law and the same has to be set aside.

4.It is relevant to mention that the Tribunal has fixed the notional monthly income of the injured claimant at Rs.4,500/- at the rate of Rs.150/- per day for a period of 11 days the period during which he has taken treatment as inpatient. While fixing the compensation for permanent disability and loss of earning capacity, the Tribunal, keeping his age at 42 years, applying multiplier at 14, arrived at the loss of income at Rs.5,29,200/- (4500 x 12 x 14 x 70%). Considering the fact that the injured/claimant is aged 42 years at the time of accident and that he was eking his livelihood as an agricultural coolie, this Court is of the opinion that the sum granted viz. Rs.5,29,200/- under the head loss of income cannot be found fault with. Similarly, a sum of Rs.25,000/- towards pain and suffering, awarded by the Tribunal, on the basis of the judgment of the Hon'ble Apex Court reported in 2014 (1) TN MAC 279 (Sanjay Varma Vs. Hariyana Roadways) and one another judgment of the Hon'ble Apex Court reported in 2013 (2) TN MAC 66 (SC) and a sum of Rs.20,000/- awarded towards extra nourishment also cannot be found fault with since the claimant was taking treatment as inpatient for a period of 11 days. As there was no dispute with regard to the medical bills marked as Ex.P6, a sum of Rs.67,500/- has been awarded towards medical expenses. That is confirmed as it is. Thus it is seen that the Tribunal has awarded a total compensation of Rs.7,90,000/-, which seems to be reasonable and this Court is inclined to confirm the same.

5.Accordingly, the Civil Miscellaneous Appeal fails and the same is dismissed. No costs. Consequently, Connected miscellaneous petition is closed.

6.Since the learned counsel for the appellant submitted that the appellant has deposited Rs.25,000/- towards statutory deposit, the balance amount is directed to be deposited within a period of four weeks from the date of receipt of a copy of this

order. On such deposit, it is for the claimant to move a petition before the learned Tribunal for withdrawing of the said amount.

vga

s/d-
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

To

1. Motor Accidents Claims Tribunal,
Subordinate Judge, Mannargudi
 2. The Section Officer, V.R. Section,
High Court, Madras.
 3. The Managing Director,
Tamil Nadu State Transport Corporation Ltd,
Railway Station Road,
Kumbakonam Munsif and Taluk,
Kumbakonam.
- + 1 cc to M/s.D.Venkatachalam, Advocate SR 65315

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