

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 342 of 2015

&

M.P. No. 1 of 2015

The Managing Director,
TNSTC (Kumbakonam) Limited,
Kumbakonam.

..Appellant/Respondent

Vs.

1. Mr. Palanivel
2. Mr. Paneerselvam

3. The National Insurance Company Ltd.,
Thiruvaruru.
(R2 & R3 given Up)

..Respondents/Petitioner.

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 07.03.2012 passed in M.C.O.P. No. 14 of 2011 by the Motor Accidents Claims Tribunal cum Chief Judicial Magistrate Court, Thiruvarur.

For Appellant :: Mr.V.S. Vijay Veliappan

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the Transport Corporation as against the award of Rs. 3,15,000/- passed by the Motor Accidents Claims Tribunal cum District Court, Thiruvarur, for the injuries sustained by the 1st respondent/claimant in the accident, which occurred on 02.10.2008.

2. Heard the learned counsel for the appellant.

3. The only point in issue is with regard to the quantum of compensation awarded by the Tribunal.

4. According to the learned counsel for the appellant, multiplier method adopted by the Tribunal for 30% disability is unwarranted.

5. However, a scrutiny of the award would show that the 1st respondent/claimant sustained fracture of two bones connected with right leg joint and a surgery was conducted on 03.10.2008 for fixation of plate and screws. Since the fractured bones got malunited, it resulted in bending of leg and therefore, the 1st respondent/claimant could not walk, sit and squat properly. In view of that, P.W.2, Doctor, based on medical records and on examination of the claimant, assessed the disability at 35%. However, the Tribunal determined the disability at 30% and the same is sustained.

6. On account of the injuries, the 1st respondent/claimant would have definitely suffered loss of income and therefore, multiplier method was rightly adopted. Taking the monthly income as Rs.3500/- and adopting multiplier 16, the Tribunal awarded a sum of Rs. 2,01,600/- towards "Loss of Income due to disability", which is very reasonable. Besides, the sum of Rs. 15,000/- awarded towards "Pain and Suffering"; the sum of Rs. 10,000/- awarded towards "Transportation Charges"; Rs.3400/- awarded towards "Attendant Charges" and Rs.85,000/- awarded towards "Medical Expenses" as per Ex-P4 and the evidence of P.W.1 are very reasonable and are confirmed. Hence, the award of Rs.3,15,000/- granted by the Tribunal as compensation together with interest @ 7.5% per annum cannot be said to be on the higher side. Hence, the appeal fails and the same is dismissed. No costs. Connected M.P. is closed.

7. The appellant is directed to deposit the entire award amount, with interest and costs, before the Tribunal, after deducting the amount, if any, already deposited, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the 1st respondent/claimant is permitted to withdraw the entire amount, within a period of two weeks thereafter.

nv

-s/d-

Deputy Registrar(J)

Dt:30/3/2015

True Copy

Sub-Assistant Registrar

To

The Motor Accidents Claims Tribunal
(Chief Judicial Magistrate Court), Thiruvarur.

+ 1 cc to Mr.V.S.Vijay Veliappan, Advocate SR 13372

tej(co)
prk31/3

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