

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.485 of 2015

and

M.P.No.1 of 2015

The Managing Director
Tamil Nadu State Transport Corporation Ltd.,
No.37, Mettupalayam Road,
Coimbatore. Appellant / Respondent

Vs.

Chinnasamy Respondent/ Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 29.11.2012 made in M.C.O.P.No.1483 of 2010 on the file of Motor Accident Claims Tribunal, (II Additional District cum Sessions Judge), Tiruppur.

For Appellant : Mrs.R.T.Sundari

For Respondent : Mr.Ma.P.Thangavel

JUDGMENT

The appeal has been preferred by the Transport Corporation against the award of Rs.2,34,500/- as compensation, for the injuries sustained by the respondent/claimant, aged about 60 years, in the accident, which occurred on 09.11.2010.

2. Heard Mrs.R.T.Sundari, learned counsel appearing for the appellant Transport Corporation, and Mr.Ma.Pa.Thangavel, learned counsel appearing for the respondent/claimant.

3. In the accident, the claimant sustained fracture in his right hand and right side rib fracture and he underwent surgery. In the surgery, plate and screw was fixed in the radius ulna. Because of the injuries, there is shortening of right hand to an extent of 1.5 c.m. and the shape of hand also got changed. It is very difficult for him to lift the heavy weights and for eating, writing and drinking the water. He is also experiencing difficulty in using

the right hand. Therefore, as per Ex.P7 and the evidence of P.W.2 Doctor, the Tribunal rightly determined the disability at 41% and took 40% as disability and therefore the determination of the disability at 40% cannot be found fault with.

4. The respondent/claimant is an agricultural coolie said to have been earning about Rs.6,000/- per month. Considering the accident occurred on 09.11.2010, the determination of Rs.6,000/- per month as monthly income for agricultural coolie cannot be said to be on the higher side, even though Mrs.R.T.Sundari, learned counsel appearing for the appellant would submit that the determination of income is on the higher side. The said determination is also in consonance with the Judgment of Hon'ble Supreme Court in SYED SADIQ Vs. DIVISIONAL MANAGER, UNITED INDIA INSURANCE CO. LTD., reported in 2014(1) TN MAC 459 (SC). As the claimant is aged about 60 years, rightly, multiplier 5 was applied for determining the loss of income. The loss of income is as follows:-

$$6000 \times 12 \times 5 = 40\% \times 100 = 1,44,000/-$$

5. The claimant is aged about 60 years and it is very difficult for him to with stand the pain and suffering due to the injuries and therefore, Rs.60,000/- awarded by the Tribunal towards pain and suffering, Rs.10,000/- awarded towards transportation and extra-nourishment, Rs.500/- awarded towards medical expenses and Rs.20,000/- awarded towards loss of amenities are all reasonable. Therefore, a sum of Rs.2,34,500/- awarded by the Tribunal along with interest at the rate of 7.5% is confirmed and the appeal fails and the same is dismissed. No costs. Consequently, connected M.P. is closed.

6.The appellant Transport Corporation is directed to deposit the entire award amount along with interest at the rate of 7.5% p.a. with 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 entire award amount within one week thereafter.

Sd/-

Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

rrg

To

The II Additional District cum Sessions Judge),
The Motor Accident Claim Tribunal,
Tiruppur.

1 cc to Mrs.R.T. Sundari, Advocate, Sr. 18920
1 cc to Mr.Ma.P. Thangvel, Advocate, S. 18918

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