IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 634 of 2015

Elumalai ... Appellant

Vs.

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Tiruvannamalai. ... Respondent

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 25.07.2011 passed in MACT O.P. No. 196/2009 by the Motor Accidents Claims Tribunal (Principal Sub Court), Tiruvannamalai.

For Appellant : Mr.F. Terry Chellaraja

For Respondent : Mr.Sairaman

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the claimant aggrieved over the quantum of Rs.2,56,600/- awarded by the Motor Accidents Claims Tribunal (Principal Sub Court), Tiruvannamalai, for the injuries sustained by him in the accident, which occurred on 08.02.2009.

2. Heard Mr.F. Terry Chellaraja, learned counsel for the appellant and Mr.Sairaman, learned counsel for the respondent.

3. Learned counsel for the respondent strenuously opposed the enhancement of monthly income and also awarding of other amounts.

4. It is seen that in the accident in question, the bus belonging to the respondent Corporation ran over the right leg of the claimant leading to amputation of his right leg below knee. Based on

the evidence of the Doctor, P.W.2 and also medical records, namely, Ex-P7, the Disability Certificate, the Tribunal rightly determined the disability at 70%. The said determination is based on medical evidence and therefore, the same is sustained.

5. As far as quantum of compensation is concerned, the Tribunal only took Rs.3000/- as monthly income, in the absence of any positive proof. However, considering the fact that the accident occurred on 08.02.2009, it is appropriate to take Rs.6000/- as monthly income, which is in consonance with the judgment of the Honourable Supreme Court rendered in Syed Sadiq etc. Vs. Divisional Manager, United India Insurance Company Limited reported in 2014 (1) TN MAC 459. Following the judgment of the Honourable Apex Court in Sarla Verma and others Vs. Delhi Transport Corporation and another reported in 2009 (2) TN MAC 1, 30% is added towards "Future Prospects" as the claimant is aged about about 50 years. Therefore, the total monthly income would be,

Total monthly income :: Rs.6000/- + 30% (Rs.6000/-)
:: Rs.7800/-

The appropriate multiplier, as per the age of the claimant is 11. Applying the same, " Loss of income due to disability" is,

Loss of income due to disability :: Rs.7800 x 12 x 11 x 70/100
:: Rs.7,20,720/-

Hence, the amount of Rs. 2,01,600/- awarded by the Tribunal towards "Loss of income due to disability" is enhanced to Rs.7,20,720/-.

5. As far as other amounts awarded under other heads are concerned, a very negligible amount of Rs.5000/- was awarded each towards "Transportation Expenses" and "Extra Nourishment". The claimant was hospitalised and his right leg was amputated and therefore, sufficient amount has to be awarded towards "Extra Nourishment". Hence, the sum of Rs.5000/- awarded towards "Extra Nourishment" is enhanced to Rs.25,000/-. Similarly, Rs.5000/- awarded towards "Transportation Expenses" is enhanced to Rs.10,000/-. No amount was awarded towards " Loss of Amenities" and for " Future Medical Expenses". Therefore, a sum of Rs.25,000/- is awarded towards " Loss of Amenities". Towards the expenses to be incurred for purchase of aritificial limb, a sum of Rs.25,000/- is awarded under the head "Future Medical Expenses". Totally, a sum of Rs.8,05,720/- rounded off to Rs.8 lakhs is awarded as compensation to the appellant. The rate of interest awarded by the Tribunal @ 7.5% per annum remains unaltered.

6. The respondent Corporation is directed to deposit the entire amount, as per the modified award passed by this Court, with

interest and costs, before the Tribunal, within a period of six weeks from the date of receipt of a copy of this order, failing which, the Chairman cum Managing Director, the Financial Advisor and the Chief Accounts Officer shall appear before this Court on 08.06.2015. On such deposit being made, the appellant is permitted to withdraw only 50% of the amount with proportionate interest within a period of one week thereafter. The balance 50% is directed to be deposited in any one of the Nationalised Banks, in interest bearing Fixed Deposit, at least for a period of 6 years. The appellant is permitted to withdraw interest accruing on such deposit once in two months. The appellant shall pay additional court-fee for the enhanced amount, if any.

7. In the result, the appeal is allowed and the compensation awarded by the Tribunal, to the tune of Rs. 2,56,600/- is enhanced to Rs. 8 lakhs. No costs. For reporting compliance, post on 08.06.2015.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

nv

To

The MACT (Prl. Sub Court),
Tiruvannamalai.

Copy To

The Chairman Cum Managing Director/ The Advisor/
Chief Accounts Officer,
Tamil Nadu State Transport Corporation Limited,
Tiruvannamalai, Tiruvannamalai District.

+1cc to M/s.M.Malar, Advocate, S.R.No.18914
+1cc to Mr.S.Sairaman, Advocate, S.R.No.18846

C.M.A. No. 634 of 2015

CNR(CO)
CA(24/04/2015)