

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.3670 of 2014

and

M.P.No.1 of 2014

The State Transport Corporation Ltd.,
Kumbakonam Division,
Kumbakonam. Appellant/Respondent

Vs.

Mani @ Manivannan Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act 1988 against the judgment and decree dated 27.03.2014 made in M.C.O.P.No.153 of 2012 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Ariyalur.

For Appellant : Mr.D.Venkatachalam

JUDGMENT

The appeal has been preferred by the Transport Corporation against the award of Rs.10,80,000/- as a compensation for the injury sustained by the respondent/claimant in the accident, which occurred on 24.02.2010.

2. Heard the learned counsel for the appellant. The only question to be decided is whether the amount awarded is adequate or not.

3. It is argued by the learned counsel for the appellant that 98% was determined as disability and it is on the higher side. That apart Rs.5,000/- has been taken as monthly income in the absence of any proof. Therefore, he seeks to reduce the amount. However, a perusal of the record would show that the respondent, 34 years old, Electrician, lost his two legs viz., two legs were amputated. When two legs were amputated, he has become immobile. Practically, he cannot do any work at all. When that is the position, there will be a 100% loss of earning power and disability will also be 100%.

4. The accident occurred on 24.02.2010. Though the Tribunal determined Rs.5,000/- as monthly income, the Honourable Supreme Court in Syed Sadiq etc. Vs. Division Manager, United India Insurance Company Limited reported in 2014 (1) TN MAC 459 determined Rs.6,500/- as the monthly income for a vegetable vendor, who sustained injury in the accident occurred on 14.02.2008. Following the said judgment, this Court also determined the monthly income at Rs.6,500/-. The appropriate multiplier for age 34 is 16. The loss of income determined as follows:

$$6500 \times 12 \times 16 = 12,48,000/-$$

5. Though 50% is to be added as future prospectus, this Court is not awarding any amount towards future prospectus. The Tribunal rightly awarded a sum of Rs.94,200/- towards medical expenses as per Ex.P4 series. Similarly, a sum of Rs.10,000/- towards transportation is also confirmed. The tribunal awarded a sum of Rs.25,000/- towards pain and sufferings, which is very low as the claimant lost his both legs and hence, the same is enhanced to Rs.50,000/-. Similarly, a sum of Rs.10,000/- was awarded towards extra nourishment, which is too low and the same is enhanced to Rs.25,000/-. No amount was awarded towards loss of amenities and future medical expenses. Hence, a sum of Rs.40,000/- each is awarded towards loss of amenities and future medical expenses. Totally, this Court awards a sum of Rs.15,07,200/- as compensation rounded off to Rs.15,00,000/-. The rate of interest awarded by the Tribunal at 6% remains unaltered.

6. Though the appeal has been filed by the Transport Corporation against the award of Rs.10,80,000/-, the same is enhanced to Rs.15,00,000/-, even in the absence of appeal/cross appeal, at the admission stage itself without notice to the claimant, in an endeavor to award just compensation, invoking Order 47 Rule 33 of the Code of Civil Procedure. Moreover, the provisions of Motor Vehicles Act are beneficial in nature. सत्यमेव जयते

7. In view of the above, this Civil Miscellaneous Appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

8. The appellant/Transport Corporation is directed to deposit the entire amount along with interest and costs, as per the modified award passed by this Court, on or before 29.03.2015, failing which, the Chairman cum Managing Director and Finance Adviser cum Chief Accountant Officer of the Corporation shall appear before this Court on 30.03.2015. On such deposit being made, the respondent is permitted to withdraw only 50% of the award amount. The balance 50% of the award amount shall be deposited in interest bearing Fixed

Deposit in any one of the Nationalised Banks for a period of three years.

Post the matter on 30.03.2015 for reporting compliance.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsm

To

The Motor Accident Claims Tribunal,
Principal District Judge, Ariyalur.

1 cc to Mr.Mr.D.Venkatachalam ,Advocate, SR.No.4992

Copy to:

The Section Officer,
Judicial Department,
High Court, Madras-104.

(for posting the matter 30.3.2015 for Reporting Compliance)

C.M.A.NO.3670 of 2014

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