

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2015

CORAM

THE HONOURABLE Ms. JUSTICE K.B.K.VASUKI

C.M.A.No.2176 of 2010
and M.P.No.1 of 2010

The Managing Director,
Tamil Nadu State Transport Corporation
Limited,
Division-II, 37, Mettupalayam Road,
Coimbatore & Chennimalai Road,
Erode.

... Appellant/Respondent

vs.

Raja @ Mohan Raj

... Respondent/Claimant

Civil Miscellaneous Appeal under Section 173 of Motor Vehicle Act, 1988 has been filed against the award made in MCOP No.1089 of 2007 dated 29.9.2009 passed by the Motor Accidents Claims Tribunal, Principal Sub Judge, Tiruppur.

For appellant : Mr.S.V.Vasanthakumar

For respondent : Mr.MA.P.Thangavel

JUDGMENT

The civil miscellaneous appeal is filed by Tamil Nadu State Transport Corporation only by questioning the quantum of compensation of Rs.3,99,300/- awarded to the injured in the accident.

2. Heard both the learned counsel on record for the appellant and the respondent and perused the entire materials available on record.

3. For the sake of convenience, the parties will be referred to as per their ranking before the Tribunal.

4. The injured claimant was on the date of accident 35 years and was employed as Cutting Master in S.M.Exports, Tiruppur for monthly salary of, according to the claimant, Rs.4,000/- per month and the claimant in the accident sustained

multiple fractures on left leg, left toe, right hand humerus bone and right shoulder and was under treatment at Government Hospital, Tiruppur, Coimbatore and Government General Hospital, Chennai. The claimant because of the fractures, sustained 40% functional disability of the whole body resulting in inability to carry on the job as Cutting Master as before which in turn resulted in loss of earning capacity. The Tribunal on the basis of the oral evidence of the injured claimant, his doctor and his employer and on the basis of Ex.P.3 to Ex.P.5-Medical records relating to the treatment at Government Hospital, Tiruppur, Coimbatore and Government General Hospital, Chennai and Ex.P.6-Disability Certificate and Ex.P.7-X Ray rendered the findings as stated above and based on such findings, awarded compensation of Rs.3,99,320/- as follows:-

Loss of future earning	:	Rs.3,76,360.00
Pain and sufferings	:	Rs. 15,000.00
Extra nourishment	:	Rs. 2,000.00
Transportation to Hospital	:	Rs. 1,000.00
Loss of amenities	:	Rs. 5,000.00

Total	:	Rs.3,99,320.00

and the same is payable with 7.5% interest and costs. The respondent Transport Corporation is now before this Court questioning the quantum of compensation of Rs.3,76,360/- for loss of future earning.

5. It is contended before this Court that the monthly income fixed and the degree of disability as accepted by the Tribunal are without any basis. It is also argued that the determination of loss of earning by applying multiplier method is also erroneous which resulted in awarding of higher compensation. This Court considering the age and nature of job carried on by the claimant and nature and degree of disability sustained by him and his inability to carry on his job as Cutting Master as before, is of the considered view that the amount of compensation awarded for loss of earning is fair and reasonable. Even otherwise, considering the low amount of compensation awarded under other heads, the quantum of compensation for loss of earning warrants no interference and the amount awarded is hence confirmed by this Court.

6. In the result, the civil miscellaneous appeal is dismissed. The State Transport Corporation is directed to deposit the entire award amount, less the amount already deposited, with costs and interest at the rate of 7.5% per annum from the date of petition till the date of deposit, to the credit of MCOP No.1089 of 2007 on the file of the Motor

Accidents Claims Tribunal, Principal Sub Judge, Tiruppur, within four weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the entire amount, with accrued interest and costs, less the amount, if any, that has already been withdrawn by him, on due cheque application. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sbi

To

1.The Motor Accidents Claims Tribunal,
The Principal Sub Judge, Tiruppur.

+1cc to Mr.Ma. P. Thangavel, Advocate, S.R.No.46122
+1cc to Vasantha Kumar, Advocate S.R.No.46046

VD(CO)
EU(23/11/2015)

C.M.A.No.2176 of 2010

सत्यमेव जयते

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