

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.2509 of 2010
and
M.P.No.1 of 2010

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Division-I, 37, Mettupalayam Road,
Coimbatore.

...Appellant

vs.

D.Kalyanasundram

...Respondent

Civil Miscellaneous Appeal has been filed against the award made in MCOP No.327 of 2007 dated 30.1.2010 passed by the Motor Accidents Claims Tribunal, Additional Sub Judge, Tiruppur.

For appellant : Mr.S.V.Vasanthakumar

For respondent : Mr.MA.P.Thangavel

JUDGMENT

The State Transport Corporation is the appellant herein. The award is challenged only by questioning the quantum of compensation of Rs.10,09,800/- awarded to the injured in the accident.

2. Heard both the learned counsel on record appearing 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 main grievance raised by the Transport Corporation is against the assessment of permanent disability at 85% and determination of loss of future earning at Rs.7,34,400/-. The Tribunal, on the basis of the oral evidence of the injured claimant and his Doctor and his Manager as P.Ws.1 to 3 and on the basis of Ex.P.3-Wound Certificate, Ex.P.4-Discharge Summary, Ex.P.5-Medical Bills, Ex.P.7-photo, Ex.P.8-Disability Certificate, Ex.P.9-X Ray, Ex.P.11-ESI contribution register, Ex.P.12-Attendance register and Ex.P.14-Resignation Letter of the claimant, found that the injured was aged 36 years on the date of accident and he was employed in M/s.Flora Textiles Limited as Labour and received a sum of Rs.4,500/- as monthly salary and sustained multiple fractures on left hand, left humerus bone, besides injuries all over the body in the accident and he was treated for the multiple fractures at K.M.C.Hospital, Coimbatore as inpatient for three months and had been continuously under treatment and as per the medical records, he incurred huge expenses by way of medical treatment and even after the treatment, his bones are mal-united and he is suffering from pain and he sustained 85% permanent physical disability and functional disability and because of the disability caused due to the accident, he is unable to do his job as before which compelled him to submit his resignation and the same was accepted by his employer M/s.Flora Textiles Limited, Karumathampatty and he lost his entire earnings. The Tribunal on the basis of the findings as above stated, determined the compensation under various heads as follows:-

Loss of future earning	:	Rs. 7,34,400/-
Medical bills	:	Rs. 2,08,917/-
Transportation to hospital	:	Rs. 1,500/-
Extra nourishment	:	Rs. 10,000/-
Damages to clothes	:	Rs. 5,000/-
Pain and sufferings	:	Rs. 50,000/-

Total	:	Rs.10,09,817/-

5. The learned counsel for the Transport Corporation would raise serious objection against the degree of disability fixed by the Tribunal and the application of multiplier method adopted for determining the loss of earning and the quantum of compensation for loss of earning. This Court considering the age, nature of the job and nature of the injuries and fractures sustained and duration of the treatment undergone and the medical expenses incurred all by the claimant and degree of

permanent disability and the degree of functional disability of the claimant is of the view that the amount of compensation awarded is fair and reasonable and warrants no interference.

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.327 of 2007 on the file of the Motor Accidents Claims Tribunal, Additional Sub Judge, Tiruppur, within a period of eight 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-III)

//True Copy//

Sub Assistant Registrar

sbi

To

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

2.The Record Keeper,
V.R. Section,
High Court, Madras.

1 CC to Mr.S.V.Vasanthakumar, Advocate SR.No. 46045

1 CC to Mr.MA.P.Thangavel, Advocate SR.No. 46121

C.M.A.No.2509 of 2010

CA (CO)
PSI (30.10.2015)