

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2015

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THE HONOURABLE MR.JUSTICE B.RAJENDRAN

CMA No.1732 of 2006
and
C.M.P.No.7624 of 2006

The Managing Director,
Metropolitan Transport Corporation Limited,
Divison II, Chennai. ... Appellant/Respondent

Vs

J.Suresh ... Respondent/Claimant

Appeal filed under Section 173 of Motor Vehicles Act 1988 as against the judgment and decree passed by the Motor Accidents Claims Tribunal, II Judge, Small Causes Court, Chennai made in MACTOP No.241 of 2001 dated 27.07.2005.

For Appellant : Mr.S.V.Vasanthakumar

For Respondent : No appearance

J U D G M E N T

The Metropolitan Transport Corporation is the appellant.

2. The claimant/respondent, who sustained grievous injuries in the accident that took place on 18.04.2000 has filed a claim petition before the Court below claiming a compensation in a sum of Rs.1,00,000/-. The Tribunal, on appreciation of oral and documentary evidence, passed an award for a sum of Rs.80,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. Questioning the same, the present appeal has been filed by the Transport Corporation.

3. Though notice has been served on the respondent/claimant and his name is also printed in the cause list, none appeared.

4. Heard the learned counsel for the appellant-Transport Corporation.

5. The learned counsel appearing for the appellant/Transport Corporation fairly states that they are mainly aggrieved of the quantum determined by the Tribunal that too apart from awarding Rs.12,000/- towards loss of income between 18.04.2000 and

18.7.2000, also awarded Rs.20,000/- towards loss of earning capacity because of the injuries caused in the accident which is incorrect and on the higher side. In such circumstances, there is no need for us to go into the finding relating to negligence.

6. On a perusal of the order passed by the Court below, it is seen that after taking into consideration that the claimant has suffered 30% disability, the lower court has awarded Rs.30,000/- towards permanent disability which is fair and reasonable. It has further awarded Rs.20,000/- towards loss of earning capacity which is not correct. Further, the lower court has also awarded Rs.12,000/- towards loss of income between 18.4.2000 and 18.7.2000. Therefore, the amount awarded towards loss of earning Rs.20,000/- is reduced to Rs.10,000/-. In addition to that for pain and suffering in a sum of Rs.15,000/-; towards transport expenses Rs.1,000/-, for Extra Nutrition Rs.1,500/-, for damage of cloth and articles Rs.500/-, totalling to Rs.70,000/- has been awarded.

7. In view of the above, the compensation awarded by the Court below is modified as follows:

30% permanent disability - Rs. 30,000/-

[@ Rs.1,000/- per percentage]

Loss of income between

18.04.2000 and 18.7.2000 Rs. 12,000/-

Pain and suffering - Rs. 15,000/-

Transportation - Rs. 1,000/-

Extra nourishment - Rs. 1,500/-

Damage of Cloth and articles - Rs. 500/-

Loss of Earning Capacity - Rs. 10,000/-

Accordingly, a sum of Rs.70,000/- [Rupees Seventy thousand only] is awarded as compensation reducing Rs.10,000/- from the amount

awarded by the court below.

8. The appellant-Transport Corporation is directed to deposit the entire modified award amount of Rs.70,000/- with interest at 7.5% p.a. within a period of four weeks from the date of receipt of a copy of this order, if not deposited already. If the appellant-transport Corporation has already deposited the entire award amount of Rs.80,000/- awarded by the court below, it is directed to withdraw Rs.10,000/- with interest. The claimant/respondent is also permitted to withdraw the modified award amount with interest.

9. Accordingly, the Civil Miscellaneous Appeal is allowed. No costs. Consequently, the connected civil miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1.The II Judge,
Motor Accidents Claims Tribunal,
Small Causes Court, Chennai

2.The Section Officer,
V.R.Section,
High Court, Madras.

+1cc to Mr.S.V.Vasanthakumar, Advocate, S.R.No.56116

CMA NO.1732 of 2006

KJI (CO)
CA(05/11/2015)

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