

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2015

C O R A M

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

C.M.A.No.224 of 2006

Elangovan ... Appellant/Petitioner

-Vs.-

The Managing Director
Tamil Nadu State Transport Corporation
Kancheepuram. ... Respondent./Respondent

Civil Miscellaneous Appeal against the judgment and decree dated 29.06.2005 passed by the learned Additional District Judge, Fast Track Court No.II [Motor Accident Claims Tribunal], Kancheepuram in M.C.O.P.No.14 of 1999.

For Appellant ... Mr.N.Veerasamy

For Respondent ... Mr.S.V.Vasanth Kumar

J U D G M E N T

The claimant is the appellant. He moved the Motor Accident Claims Tribunal, Kancheepuram in M.C.O.P.No.14 of 1999 claiming a compensation in a sum of Rs.3,00,000/- for the grievous injury sustained by him in a motor vehicles accident involving the State Transport Corporation. The Tribunal awarded a sum of Rs.46,000/-, which is under challenge in this appeal seeking enhancement of the compensation.

3. At the outset, both sides did not dispute the accident and they restricted their arguments only with regard to the quantum awarded.

4. Learned counsel appearing for the appellant would submit that even though the claimant has suffered multiple injuries and the Doctor PW2 has given the medical certificate assessing the permanent disability at 35%, the Court below did not take into consideration the same and fixed the disability at 15% and awarded only a sum of Rs.15,000/- towards the same. He would further submit that the appellant is a weaver by profession and due to the accident, he could not continue his profession as he could not even lift his shoulder. Further, the learned counsel for the appellant would submit that the appellant has taken

treatment even after being discharged from the hospital for several days. Though the claimant had claimed a sum of Rs.3,00,000/- as compensation, the Tribunal has awarded only a sum of Rs.46,000/-. Accordingly, he would pray for enhancement of the same.

5. Learned Counsel appearing for the respondent/Transport Corporation would submit that the Court below after taking into consideration the entire medical records and also the documents produced on the side of the claimant, fixed the permanent disability at 15% and awarded a sum of Rs.15,000/-, warranting no interference in this appeal.

6. Heard both sides and perused the records.

7. On a careful perusal of the judgment passed by the Court below, it is seen that the court below had awarded a total compensation of Rs.46,000/- under the following heads:

1. Permanent disability - Rs.15,000/-
2. Pain and suffering - Rs.25,000/-
3. Extra Nourishment - Rs.1,000/-
4. Medical Expenses - Rs.5,000/-

Though the Court below has held that the claimant/appellant has suffered multiple fractures and has also stated that he could not lift his shoulder and swing his hands, it should not have reduced the disability to 15% instead of 35% permanent disability fixed by the Doctor. It is also seen that the appellant/claimant is a weaver by profession and without using his hand, he cannot continue his profession. Accordingly, the Court below should have taken into consideration the same and should have fixed the disability at 25%. Hence, considering the nature of injury sustained by the appellant/claimant, I would like to fix the permanent disability at 25% and enhance the compensation from Rs.15,000/- as awarded by the Court below to Rs.50,000/- by fixing at the rate of Rs.2,000/- per percentage of disability, which would be reasonable.

8. Further the Court below had awarded a sum of Rs.5,000/- towards medical expenses; Rs.1,000/- towards extra nourishment and a sum of Rs.25,000/- towards pain and suffering, which are very reasonable considering the nature of the injuries sustained by the claimant/appellant.

9. In the result, the judgment passed by the Court below is modified only to the extent of fixing the permanent disability at 25% and in awarding a sum of Rs.50,000/- towards the same. Since the Court below has already awarded a sum of Rs.15,000/- under the said head, the respondent-Transport Corporation is directed to pay a sum of Rs.35,000/- to the appellant/claimant as compensation.

10. Accordingly, the respondent/State Transport Corporation is directed to deposit the entire compensation amount of Rs.81,000/-[Rupees eighty one thousand only] to the credit of MCOP No.14 of 1999 on the file of the Motor Accident Claims Tribunal, Kancheepuram within a period of six weeks from the date of receipt of a copy of this order along with an interest at the rate of 7.5% from the date of petition. It is needless to state that on such deposit being made, the appellant/claimant is entitled to withdraw the entire compensation amount along with interest on making out a proper application before the court below.

11. With the above modification, this Civil Miscellaneous Appeal is allowed in part. No costs.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

vj2

To

1) The Motor Accidents Claims Tribunal
Additional District Judge cum
Fast Track Court No.II, Kancheepuram.

2) The Record Keeper,
VR Section, High Court, Madras.

+1 cc to Mr.N.Veerasamy, Advocate, sr.51589

+1 cc to Mr.S.V.Vasanthakumar, Advocate, sr.51675

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